

Governing the States

Essential Question

How much power should State government have?

Section 1:

State Constitutions

Section 2:

State Legislatures

Section 3:

The Governor and State Administration

Section 4:

In the Courtroom

Section 5:

State Courts and Their Judges

“The Constitution, in all of its provisions, looks to an indestructible **Union**, composed of indestructible States.

—Chief Justice Salmon P. Chase, *Texas v. White*, 1869

Photo: Governor Bob Riley (R., Alabama) surveys hurricane damage.

GOVERNMENT ONLINE

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- Audio Review
- Downloadable Interactivities

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Lesson Goals

SECTION 1

Students will . . .

- examine the origins, features, and purposes of State constitutions through discussion of the six main principles of State constitutions.
- analyze their State constitution and complete a chart identifying areas for reform.
- discuss federalism and locate supporting information in the U.S. Constitution.

SECTION 2

Students will . . .

- compare and contrast features of State legislatures with those of the U.S. Congress.
- identify and rank the main powers of State legislatures and provide examples of each.
- discuss how State legislatures influence the lives of citizens and how citizens influence lawmaking.

SECTION 3

Students will . . .

- complete a chart to examine the powers of a State governor.
- complete a worksheet to compare and contrast State governorships with the U.S. presidency.
- participate in a mock meeting to investigate the roles and responsibilities of State executive officers.

SECTION 4

Students will . . .

- demonstrate knowledge of the five forms of law by completing a concept web.
- compare and contrast features of criminal versus civil law.
- analyze summaries of court cases.

SECTION 5

Students will . . .

- discuss the positive and negative aspects of electing or appointing judges.
- evaluate methods of judge selection by reading primary sources and through participation in a Socratic Dialogue.

DIFFERENTIATED INSTRUCTION KEY

Look for these symbols to help you adjust steps in each lesson to meet your students' needs.

L1 Special Needs

L2 Basic

ELL English Language Learners

LPR Less Proficient Readers

L3 All Students

L4 Advanced Students

Pressed for Time

To cover the chapter quickly, have students describe the basic structure and function of the Federal Government (the three branches, the executive leader, the courts, and so on). As they do so, create a concept web on the board. As you discuss each part of the structure, describe how that structure applies to State governments, including the fact that each is based on a written constitution. Explain the powers of each branch of State government. Ask students to recreate the concept web from the board in their notebooks, title it “State Governments,” and add details to each part as they read Sections 2–5.

GUIDING QUESTION

What are the defining features of State constitutions?

I. The First State Constitutions

A. Independence

1. first modeled on colonial charters
2. most today became effective after popular vote

B. Principles of State constitutions

1. popular sovereignty; limited government
2. bill of rights; separation of powers; checks and balances; bicameral

II. State Constitutions Today

A. Basic Principles

1. popular sovereignty and limited government
2. separation of powers; checks and balances

B. Bill of rights

C. Structure of State and local government

D. Powers and processes

E. Process for constitutional change

F. Miscellaneous provisions

1. preamble—purpose
2. schedule for putting into effect
3. dead letter provisions—no current effect

III. Constitutional Change

A. Procedures for Change

1. steps: proposal; then ratification
2. conventions for revision
3. amendment proposed by legislature or initiative

B. Ratification of Amendments—usually majority vote

IV. Need for Reform

A. many State constitutions are too long

B. fail to distinguish fundamental from statutory law

C. outdated

SECTION 1

State Constitutions

Guiding Question

What are the defining features of State constitutions? Use an outline to take notes on the defining qualities of State constitutions.

I. The First State Constitutions

A. Independence

1. _____

2. _____

B. _____

1. _____

2. _____

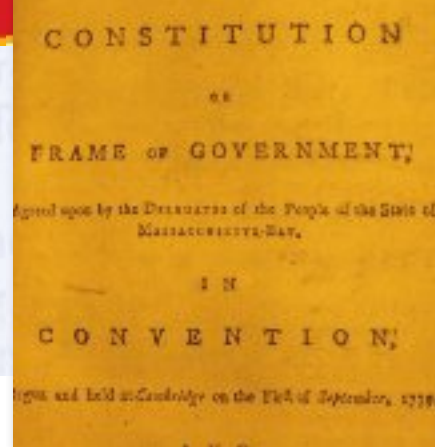
Political Dictionary

- popular sovereignty
- limited government
- fundamental law
- initiative
- statutory law

Objectives

1. Examine the history, content, and significance of the first State constitutions.
2. Describe the basic principles common to all State constitutions today.
3. Explain the procedures used to change State constitutions.
4. Analyze why State constitutions are in need of reform.

Image Above: Massachusetts constitution of 1780



Not very many people have ever seen a State constitution, let alone read one. Join a rather exclusive club and look at your State's document. This step should prove useful as you read this chapter.

A State constitution is that State's supreme law. It sets out the ways in which the government of the State is organized, and it distributes powers among the various branches of that government. It authorizes the exercise of power by government and, at the same time, puts limits on the exercise of power by government. Every State's constitution is superior to any and all other forms of State and local law within that State.

Recall, however: Each State's constitution is subordinate to the Constitution of the United States. No provision in any State's constitution may conflict with any form of federal law.

The First State Constitutions

Each of the 50 States has a *written* constitution. From the beginning, government in this country has been based on written constitutions.

Our experience with such documents dates from 1606, when King James I granted a charter to the Virginia Company. That act led to the settlement at Jamestown in the following year and, with it, the first government in what would become British North America. Later, each of the other English colonies was also established and governed on the basis of a written charter.

Independence When the 13 colonies became independent, each faced the problem of establishing a new government. On May 15, 1776, the Second Continental Congress, meeting in Philadelphia, advised each of the new States to adopt

“such governments as shall, in the opinion of the representatives of the people, best conduce to the happiness and safety of their constituents in particular, and America in general.”

—Second Continental Congress

SKILLS DEVELOPMENT

ANALYZE SOURCES

To help students learn to analyze sources, have them turn to the Skills Handbook, p. S14, and use the information there to assist them in examining their State constitution for the Extend Worksheet activity.

Focus on the Basics

Here is the information that your students need to learn in this section.

FACTS: • The first State constitutions emerged from colonial charters and the revolutionary experience. • State constitutions outline the governments' basic principles, protect civil rights, define the structure of State government and its functions, and include procedures for amendment. • State constitutions can be changed by formal amendment or revision, usually with approval by popular vote.

CONCEPTS: constitutional government, fundamental law, initiative

ENDURING UNDERSTANDINGS: • Every State has a unique written constitution that defines the State's government and values. • Many State constitutions need reform to remove outdated and confusing provisions.

Most of the colonial charters served as models for the first State constitutions. Indeed, in Connecticut and Rhode Island, the charters seemed so well suited to the needs of the day that they were carried over into statehood as constitutions almost without change.¹

The earliest State constitutions were adopted in a variety of ways. However, the people played no direct part in the process in any State.

Six of the revolutionary legislatures drew up new documents and proclaimed them in force in 1776. In none of those States—Maryland, New Jersey, North Carolina, Pennsylvania, South Carolina, and Virginia—was the new constitution offered to the people for their judgment.

In Delaware and New Hampshire in 1776, and in Georgia and New York in 1777, the constitutions were prepared by conventions called by the legislature. In each case, the new document had to be approved by the legislature in order to become effective, but in none was popular approval required.

In 1780, a popularly elected convention prepared a new constitution for Massachusetts. It was then ratified by a vote of the people. Thus, Massachusetts set the pattern of popular participation in the constitution-making process, a pattern generally followed among the States ever since.²

Assemblies representing the people drafted all of the present State constitutions; most of them became effective only after a popular vote. Only the present-day documents of Delaware (1897), Mississippi (1890), South Carolina (1895), and Vermont (1793) came into force without popular ratification.

Principles of State Constitutions Because the first State constitutions came out of the same revolutionary ferment, they shared many basic features. Each proclaimed

the principles of **popular sovereignty** and **limited government**. That is, in each of them the people were recognized as the sole source of authority for government, and the powers given to the new government were closely limited. Seven documents began with a lengthy bill of rights. All of them made it clear that the sovereign people held “certain unalienable rights” that government must respect.

The doctrines of separation of powers and checks and balances were also built into each of the new constitutions. In practice, however, the memory of the hated royal governors was still fresh. Thus, most of the authority that each State government had was given to the legislature. For example, only New York, Massachusetts, and South Carolina allowed the governor to veto acts of the legislature. In all the States except Georgia (until 1789) and Pennsylvania (until 1790), the legislature was bicameral.³

For their time, the early State constitutions were fairly democratic. Each however, contained several provisions (and some important omissions) that were quite undemocratic by today’s standards. Thus, none of them provided for full religious freedom. Each one set rigid qualifications for voting and for officeholding, and all gave property owners a highly favored standing.

Checkpoint
Who drafted the first
State constitutions?

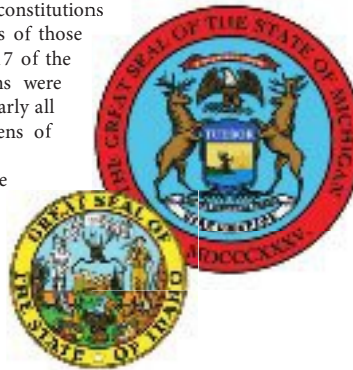
ferment
n. a state of great
change

State constitutions
often specify designs
for State symbols,
including the State
seal.

State Constitutions Today

The present-day State constitutions are the direct descendants of those earlier documents. Only 17 of the current State constitutions were written after 1900, and nearly all have been amended dozens of times.

Subject only to the broad limitations set out in the Federal Constitution, the people of each State can create whatever kind of “Republican Form of



1 Connecticut’s legislature did not write a new document until 1818, and Rhode Island’s waited until 1842.
2 As we noted in Chapter 2, with independence Massachusetts relied on the colonial charter in force there prior to 1691 as its first State constitution. When New Hampshire adopted its second (and present) constitution in 1784, it followed the Massachusetts model of popular convention and popular ratification.

3 Vermont, which became the 14th State in 1791, had a unicameral legislature until 1836. Only Nebraska has a one-house legislative body today, and it has had one since 1937.

Get Started

LESSON GOALS

Students will . . .

- examine the origins, features, and purposes of State constitutions through discussion of the six main principles of State constitutions.
- analyze their State constitution and complete a chart identifying areas for reform.
- discuss federalism and locate supporting information in the U.S. Constitution.

BEFORE CLASS

Assign the section, the graphic organizer in the text, and the Reading Comprehension Worksheet (Unit 7 All-in-One, p. 15) before class.

L2 Differentiate Reading Comprehension Worksheet (Unit 7 All-in-One, p. 16)

BELLRINGER

In their notebooks, ask students to answer this question: **Why do we have State constitutions as well as a U.S. Constitution?**

L2 Differentiate Rephrase the directions. Ask: **What does a State constitution do that the U.S. Constitution does not?** Allow students to use their textbooks for ideas.

L2 ELL Differentiate Suggest that students create a concept web to record their ideas about why we have State constitutions.

Teach

To present this topic using online resources, use the lesson presentations at **PearsonSuccessNet.com**.

INTRODUCE THE TOPIC

Ask students to share their ideas from the Bellringer activity about why State constitutions are needed. Examples may include: to set up State government, regulate the safety and welfare of citizens at the State level, limit the power of the State government, and pass and execute laws at the local level. Display Transparency 24A, Six Principles of State Constitutions. Have students describe each principle and explain why it is important for each to operate at the State level.

L1 L2 ELL Differentiate Clarify that a *principle* is “an important basic belief or idea.” Point out the difference in spelling between *principle* and *principal*.

Answers

Checkpoint Most were based on colonial charters and written by legislatures or conventions, without popular approval.

Differentiated Resources

The following resources are located in the All-in-One, Unit 7, Chapter 24, Section 1:

- L2** Prereading and Vocabulary Worksheet (p. 11)
- L3** Reading Comprehension Worksheet (p. 15)
- L2** Reading Comprehension Worksheet (p. 16)
- L3** Core Worksheet (p. 17)
- L3 L4** Extend Worksheet (p. 19)
- L2** Extend Activity (p. 20)
- L3** Quiz A (p. 21)
- L2** Quiz B (p. 22)

Chapter 24 • Section 1

Step 1: Use evidence from the text to answer the questions.

1. What is the purpose of a State constitution?

2. What are the six principles of State constitutions?

3. What are the three branches of government?

4. What are the three levels of government?

5. What are the three types of government?

6. What are the three forms of government?

7. What are the three kinds of government?

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Elements of State Constitutions



PRINCIPLES

- Popular sovereignty; power comes from the people
- Separation of powers
- Checks and balances



CIVIL RIGHTS

- Similar to U.S. Bill of Rights
- May guarantee right to education or gender equality



STRUCTURE

- Outline of State and local government
- Rules for establishing governorship, legislature, and courts

▶▶ Analyzing Charts How are the several State constitutions similar to the federal Constitution?

✓ Checkpoint When were most current State constitutions adopted?

Government” they choose. Unique provisions can be found in each of the 50 present-day State constitutions. Still, all of them are quite similar in general outline.

Basic Principles Every State’s constitution is built on the principles of popular sovereignty and limited government. Each of them recognizes that government exists only with the consent of the people, and that it must operate within certain, often closely defined, bounds. In every State, the powers of government are divided among executive, legislative, and judicial branches. Each branch has powers with which it can restrain the actions of the other two. That is, each of the 50 documents proclaims separation of powers and, with it, checks and balances. Each also provides, either expressly or by implication, for the power of judicial review.

Protections of Civil Rights Each document features a bill of rights, a listing of the rights that individuals hold against the State and its officers and agencies. Most constitutions set out guarantees much like those in the first ten amendments to the national Constitution. Several of them include a number of other guarantees as well—for example, the right to self-government, to be safe from imprisonment for debt, and to organize labor unions and bargain collectively.

Governmental Structure Every State constitution deals with the structure of government at both the State and the local levels, including all three branches of State government and the organization of counties and local governments. A few follow the national pattern, providing only a broad outline. Most, however, cover the subject in considerable and often quite specific detail.

Governmental Powers and Processes Each document lists, in detail, the powers vested in the executive branch (the governor and other executive officers), the legislature, the courts, and the units of local government. The powers to tax, spend, borrow, and provide for education are very prominent. So, too, are such processes as elections, legislation, judicial procedures, and intergovernmental (State–local) relations.

Constitutional Change Constitutions are the product of human effort. None are perfect. Sooner or later, changes become necessary, or at least desirable. So, each State constitution sets out the means by which it may be revised or amended. Constitutions are **fundamental laws**—laws of such basic and lasting importance they cannot be changed as ordinary law can be. Constitutional changes are more difficult to bring about, as you shall see.

Constitutional Principles

LIMITED GOVERNMENT AND COLONIAL RULE The principle of limited government in American State and National constitutions can be traced back to oppressive policies of British colonial rule. For example, the British Parliament claimed the right to impose taxes on the colonists, despite the fact that the colonists could not elect officials to represent them in the British Parliament. Britain required the colonists to house British troops in their homes. When the assembly in New York refused to agree to follow through with this demand, Parliament threatened to dissolve the assembly. For many colonists, the main purpose of the struggle for independence was to free themselves from what they saw as illegal and unfair policies. As a result, the colonists wrote many limits into the State and National constitutions to make sure that their new governments could not encroach on their rights in these ways.

DISTRIBUTE THE CORE WORKSHEET

Divide the class into pairs. Distribute copies of your State’s constitution to students. (You may obtain copies of the constitution from governmental offices, such as the secretary of state, or online.) Then distribute Chapter 24 Section 1 Core Worksheet (Unit 7 All-in-One, p. 17). Either assign different sections of the constitution to each pair, or have all pairs read the entire document. Explain that they will learn about the nature of State constitutions and why reforms are needed by analyzing the constitution or their assigned section and completing the chart in the Core Worksheet.

L1 L2 ELL Differentiate You may wish to assign partners so that advanced or proficient students are paired with English language learners or less-proficient students. Check that students are sharing tasks fairly.

Name _____ Class _____ Date _____

CHAPTER 24 **CORE WORKSHEET**
SECTION 1 **State Constitutions** **3**

Analyzing a State Constitution

Read the State constitution, or portion of it, that your teacher has assigned. As you read, analyze the document to identify areas where you think it should be changed or updated. Write your ideas in the chart below. Then answer the following questions.

Suggested Change	Location in Constitution	Reason for Change

1. When was this constitution written?

2. What historical events may have influenced the writers’ feelings about government?

3. What rights are specifically protected?

4. What sort of language is used in this constitution? Is it difficult to understand? Who is the audience?

5. Does the document contradict itself? Explain.

6. What beliefs about society and government are reflected in this constitution?

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L3 Differentiate Display Transparency 24B, The Appeals Process. Discuss with students how a State’s constitution grants power to the courts and establishes processes. Ask students to speculate how the issue in the cartoon could be resolved by a constitution. (*The constitution could set limits on appeals.*)

Answers

Analyzing Charts They all include basic principles of popular sovereignty, separation of powers, checks and balances; a bill of rights; structure and processes of government; powers of each branch; amendment process; and a preamble.

Checkpoint Most were written before 1900 and are direct descendants of earlier documents.



POWERS

- Lists powers held by State officials to govern and provide services
- Empowers States to tax, spend, and borrow



CHANGE

- Processes for amendment



OTHER

- Preambles without legal force
- “Dead letter” provisions that no longer apply

Miscellaneous Provisions Every State constitution contains several sections of a miscellaneous character. Thus, most begin with a preamble, which has no legal force but does set out the purposes of those who drafted and adopted the document. Most also contain a schedule, a series of provisions for putting a new document into effect and for avoiding conflicts with its predecessor. And most include a number of “dead letter” provisions, items that have no current force or effect but nonetheless remain a part of the constitution.

Constitutional Change

Like the national Constitution, the State constitutions have been altered over time by formal amendment and by such other processes as court decisions and custom. However, those other processes have not been nearly so important at the State level as at the national level.

State constitutions are much less flexible, and much more detailed, than the national document. Constitutional change and development at the State level has come about mostly through formal amendment rather than by other means.

Two kinds of formal changes have been used: amendments, which usually deal with one or a few provisions in a constitution; and revisions, the term usually used to refer to changes of a broader scope. Revisions might

include, for example, an entirely new document. Most of the formal changes made in State constitutions are made by amendment.

Procedures for Change The process of formal change involves two basic steps: proposal and then ratification. Proposals for change can be made by a constitutional convention, the legislature, or (in several States) by the voters themselves. Ratification is by popular vote in every State except Delaware.

The constitutional convention is the usual device by which new constitutions have been written and older ones revised. More than 200 such conventions have been held. In every State the legislature has the power to call a convention, and that call is generally subject to voter approval. In 14 States the question of calling a convention must be submitted to the voters at regular intervals.⁴ Conventions can also propose amendments. However, because they are both costly and time-consuming, conventions are most often used for the broader purpose of revision.

Most amendments are proposed by the legislature. The process is comparatively simple in some States, while it is quite difficult in others. In Massachusetts, an amendment must

Checkpoint
What are the six elements of State constitutions?

miscellaneous
adj. varying; not belonging to a single category

⁴ Every 20 years in Connecticut, Illinois, Maryland, Missouri, Montana, New York, Ohio, and Oklahoma; every 16 years in Michigan; every 10 years in Alaska, Iowa, New Hampshire, and Rhode Island; and every 9 years in Hawaii

DISCUSS FEDERALISM

Wrap up this activity by discussing federalism and the need for both State and National governments. Have students examine the U.S. Constitution to identify at least five areas that outline or support the federal system. They should look for articles and amendments that describe the powers granted and denied to the National Government and powers reserved to the State Governments.

EXTEND THE LESSON

L3 L4 Differentiate Have students work individually or with a partner to complete Chapter 24 Section 1 Extend Worksheet (Unit 7 All-in-One, p. 19).

L2 Differentiate Have students create a timeline that includes main events in the history and development of your State’s constitution or the main events in the passage of a recent amendment. Timeline items might include the date when the constitution was ratified and the dates of major amendments or updates.

L2 ELL Differentiate Have visual learners or English language learners design a mural that illustrates all six principles of State constitutions. For “miscellaneous provisions,” encourage students to study your State’s constitution for ideas.

L2 Differentiate Distribute the Extend Activity “Finding Information About Your State” (Unit 7 All-in-One, p. 20), which has students research for data about their State.

Background

OLDEST AND NEWEST STATE CONSTITUTIONS The Massachusetts constitution of 1780 and New Hampshire’s constitution of 1784 are the oldest State constitutions still in force. In fact, the constitutions of these two States are older than all other written constitutions in effect in the world today. At the other extreme, Louisiana has adopted a new constitution 11 times since statehood in 1812, most recently in 1974. Georgia adopted its tenth and current constitution in 1983.

Answers

Checkpoint basic principles of popular sovereignty and limited government; protections of civil rights; governmental structure; governmental powers and processes; constitutional change; miscellaneous provisions

Amending State Constitutions

Legislature
proposes an amendment.

OR

Citizens
collect signatures to place a proposed amendment on ballot.

Citizens vote on the amendment.

GOVERNMENT ONLINE
Audio Tour
Listen to a guided audio tour of this diagram at
PearsonSuccessNet.com

► **Analyzing Diagrams** How does the amendment process for State constitutions reflect the idea of popular sovereignty?

✓ **Checkpoint**
Describe the procedure for changing a State's constitution.

obsolete
adj out of date

be approved by the legislature at two successive annual sessions before it goes to the voters for approval or rejection. In California, a proposal must be approved by the legislature at a single session before being sent on to the voters. Not surprisingly, more amendments are proposed (and adopted) in those States with simpler processes, such as California, than in States such as Massachusetts.

In 18 States the voters themselves can propose constitutional amendments through the **initiative**, a process in which a certain number of qualified voters sign petitions in favor of a proposal. The proposal then goes directly to the ballot, for approval or rejection by the people.

Ratification of Amendments In every State except Delaware, an amendment must be approved by vote of the people in order to become part of the constitution. The ratification process, like the proposal process, varies among the States.⁵

⁵ In Delaware, if an amendment is approved by a two-thirds vote in each house of the legislature at two successive sessions, it becomes effective. In South Carolina, final ratification, after a favorable vote by the people, depends on a majority vote in both houses of the legislature. Both the Alabama and South Carolina constitutions provide that amendments of local, as opposed to Statewide, application need be approved only by the voters in the affected locale.

Typically, the approval of a majority of those voting on an amendment adds it to the State constitution, though some States require a majority of all who vote in an election. On many occasions, in several States, amendments have been defeated though they received more *yes* votes than *no* votes. Most often, this happens because many voters fail to vote on all or at least some ballot measures.

The Need for Reform

Almost without exception, State constitutions are in urgent need of reform. The typical document is cluttered with unnecessary details, burdensome restrictions, and **obsolete** sections. It also carries much repetitious, even contradictory, material. Moreover, it fails to deal with many of the pressing problems that the States and their local governments currently face.

Even the newest and most recently rewritten constitutions tend to carry over a great deal of material from earlier documents and suffer from these same faults. The need for reform can be demonstrated in several ways. Looking at the documents from two standpoints, their lengths and their ages, can produce some useful insights.

The Problem of Length Length was not a problem for the first State constitutions. They were quite short, ranging from New Jersey's 1776 document (2,500 words) to the 1780 Massachusetts constitution (12,000 words). Those early constitutions were meant simply to be statements of basic principle and organization. Purposely, they left to the legislature—and to time and practice—the task of filling in the details as they became necessary.

Through the years, however, State constitutions have grown and grown. Most today are between 15,000 and 40,000 words. The shortest are those of Vermont (1793), with some 8,500 words and New Hampshire (1784), which totals about 9,200 words. At the other extreme, Alabama's 1901 constitution now runs to more than 300,000 words. A leading cause of this expansion is popular distrust of government, a historical and continuing fact of American political life. That distrust has often led to the insertion into State constitutions of detailed

How Government Works

PROPOSING A STATE CONSTITUTIONAL AMENDMENT Have students apply the *How Government Works* diagram, "Amending State Constitutions," on this page to their own State. Working with the same partner, have student pairs select a proposed constitutional change they identified in their Core Worksheet. Ask them to write a description of the change in the form of proposed legislation. Then have them write a justification for the change that they would present to the voters to urge them to approve the amendment. For an interactive version of "Amending State Constitutions," go to PearsonSuccessNet.com.

Tell students to go to the Audio Tour to listen to a guided audio tour of the "How Government Works: Amending State Constitutions" diagram.

Assess and Remediate

L3 Collect the Core Worksheets and assess students' work using the Rubric for Assessing a Graph, Chart, or Table (Unit 7 All-in-One, p. 124).

L3 Assign the Section 1 Assessment questions.

L3 Section Quiz A (Unit 7 All-in-One, p. 21)

L2 Section Quiz B (Unit 7 All-in-One, p. 22)

Have students complete the review activities in the digital lesson presentation and continue their work in the **Essential Questions Journal**.

Answers

Analyzing Diagrams Amendments can be proposed by legislators, who are elected by the people, or by the people themselves. The people then vote on the proposed amendments.

Checkpoint Proposals for change can be made by a constitutional convention, the legislature, or an initiative of the people, with ratification by popular vote in every state except Delaware.

provisions aimed at preventing the misuse of government power.

Many restrictions on that power, which could be set out in ordinary law, have been purposely written into the State constitution, where they cannot be easily ignored or readily, and quietly, changed. Special interest groups learned long ago that public policies of particular benefit to them are much more secure in the State constitution than in a mere statute.

There has been a marked failure in every State to distinguish *fundamental law*, that which is basic and of lasting importance and should be in the constitution, from **statutory law**, that which should be enacted as ordinary law by the legislature. The line separating fundamental and statutory law may be blurry in some cases. But who can seriously argue that fundamental law includes the regulation of the length of wrestling matches, as in California's constitution, or the problem of off-street parking in the city of Baltimore, as in Maryland's document?

Two other factors have contributed to the growth of State constitutions. First, the functions performed by the States, and by most of their local governments, have multiplied over recent decades. That development has prompted many new constitutional provisions. Second, the "people" have not been stingy in the use of the initiative in those States where it is available.

The Problem of Age Most State constitutions are severely outdated. They were written

for another time and are in urgent need of revision. All too often, their many amendments have aggravated the problem, adding to the clutter of the document.

The Oregon constitution provides a typical example of the situation. It was written by delegates to a territorial convention in 1857 and became effective in 1859. It has been amended more than 240 times; it now contains more than 55,000 words and includes *two* Articles VII and *nineteen* Articles XII!

Like most of the other State charters, the Oregon document is overloaded with statutory material. One of those Article XIs devotes nearly 2,000 words to a closely detailed treatment of veterans' farm and home loans. The document also contains a number of obsolete provisions, including one that bars any person who has ever engaged in a duel from holding any public office in the State.

Some States' charters have proved to be more stable than others. The oldest of all the constitutions are those in Massachusetts (1780), New Hampshire (1784), and Vermont (1793). Nineteen States still have the constitutions with which they entered the Union and, all told, 35 have documents that are now more than 100 years old.

A number of States have had several constitutions. Louisiana holds the record, with eleven. Georgia's current charter, its tenth, is the most recently rewritten document; it was adopted in 1982 and became effective the following year.

Checkpoint
What are the two main problems of State constitutions today?

REMEDIATION

If Your Students Have Trouble With	Strategies For Remediation
The defining features of State constitutions (Questions 1, 2)	Display Transparency 24A, Six Principles of State Constitutions. Have students copy the concept web in their notebooks and add details from the textbook.
Methods for changing State constitutions (Question 3)	Tell students to review the How Government Works diagram on page 712, "Amending State Constitutions." Ask them to summarize in their own words what the diagram shows. Alternatively, students may draw a flowchart with labels in their notebooks.
The basis of early State constitutions and governments (Question 4)	Describe some events and feelings that led to the American Revolution—the resentment over taxation without representation and other forced measures of the British government—and how those events affected those who wrote the new constitutions.
Need for reform in State constitutions (Question 5)	Have students review the material under "The Need for Reform" and write a main idea for each paragraph.

SECTION 1 ASSESSMENT

Essential Questions Journal To continue to build a response to the chapter Essential Question, go to your Essential Questions Journal.

1. Guiding Question Use your completed outline to answer this question: What are the defining features of State constitutions?

Key Terms and Comprehension

- 2.** Explain the concept of **popular sovereignty** as it applies to State governments.
- 3. (a)** List and explain three ways changes to State constitutions may be proposed. **(b)** How are proposed changes ratified?

Critical Thinking

- 4. Predict Consequences** Would early State governments have developed differently if they had not grown out of the experiences of the American Revolution?
- 5. Draw Inferences** Why do you think that many State constitutions remain so lengthy and unnecessarily detailed and have so many outdated provisions?

Quick Write

Explanatory Writing: Explore a Topic Based on your prior knowledge and what you have read in this section, write at least three questions that explore the ways in which State governments affect your life. (You may also want to preview Sections 2–5 for additional questions.) For example, you might ask: Which have the most direct effect on individual citizens, State laws or federal laws?

Assessment Answers

- 1.** popular sovereignty and limited government; protection of civil rights; governmental structure; governmental powers and processes; process for constitutional change; miscellaneous provisions
- 2.** The people of the State are the source of authority for the State's government.
- 3. (a) By convention:** The legislature calls a constitutional convention to write a new State constitution or revise the existing one. **By a legislature:** The State legislature proposes

amendments. **By initiative:** A specified number of voters signs a petition to put a proposal on the ballot, and voters either accept or reject it. **(b)** by voters in every State except Delaware

4. Students may suggest that the struggle to win freedom from an oppressive British government led States to establish many limits on government power and protect civil liberties and popular sovereignty.

5. The constitutional change process is cumbersome; the changes are often not a high priority for either government officials or the public.

Answers
Checkpoint too long and out of date

QUICK WRITE A strong answer will relate questions to the content of the sections and to students' lives.

GUIDING QUESTION

What are the defining traits and purpose of State legislatures?

Purpose/Structure	Powers	Organization
<ul style="list-style-type: none">• Purpose is to make the law• 49 are bicameral• 30–50 members in most upper houses• 100–150 members in most lower houses• elected from districts	<ul style="list-style-type: none">• all those not granted to executive, courts, or local government• all those not denied by State or U.S. constitutions• tax, spend, borrow, establish courts/jurisdiction, define crimes/punishment, regulate commerce, maintain schools• police power• approve or reject appointments• discipline and impeach• constituent power	<ul style="list-style-type: none">• speaker presides in lower house• president of senate is lieutenant governor in 23 States• president <i>pro tempore</i> serves in lieutenant governor's absence• standing committee of each house organized by subject• bills introduced by legislators, but may come from agencies, local governments, interest groups, public

Get Started

LESSON GOALS

Students will . . .

- compare and contrast features of State legislatures with those of the U.S. Congress.
- identify and rank the main powers of State legislatures and provide examples of each.
- discuss how State legislatures influence the lives of citizens and how citizens influence lawmaking.

SKILLS DEVELOPMENT

ANALYZE POLITICAL CARTOONS

To help students learn to analyze political cartoons, have them turn to the Skills Handbook, p. S22, and use the steps explained there to complete the Political Cartoon Mini-Lesson.

SECTION 2

State Legislatures



Guiding Question
What are the defining traits and purpose of State legislatures?
Use a table similar to the one below to record the main facts about State legislatures.

Purpose/Structure	Powers	Organization
• Purpose is to make the law	•	•
• 49 are bicameral	•	•
•	•	•

Political Dictionary
• police power
• constituent power
• referendum

- Objectives**
1. Describe State legislatures.
 2. Explain the election, terms, and compensation of legislators.
 3. Examine the powers and organization of State legislatures.
 4. Describe how voters may write and pass laws through direct legislation.

Image Above: Virginia's House of Delegates

In every State, the legislature, whatever it is called, is the lawmaking branch of State government. So, its basic function goes to the very heart of democratic government: It is charged with translating the public will into the public policy of the State.

The Legislature

Several features of their lawmaking bodies vary among the 50 States. This is notably true with regard to both name and size.

Name and Structure Just over half the States call their lawmaking body, officially, the “legislature.” In 19 States it is known as the “General Assembly,” in two States, the “Legislative Assembly,” and in two other States, the “General Court.”

All but one of the 50 State legislatures are bicameral, having two chambers. The upper house is known everywhere as “the Senate.” The lower house is most commonly titled “the House of Representatives,” but may also be “the Assembly,” “the General Assembly,” or “the House of Delegates.” Nebraska, the only State with a one-house legislature, calls it “the Legislature.”

As with Congress, bicameralism came to America’s legislative bodies out of the colonial experience. Unicameralism is regularly cited as one of the most significant steps that could be taken to improve State legislatures. Despite its apparent successes in Nebraska, efforts to accomplish it elsewhere have been notably unsuccessful. Those who defend bicameralism usually claim that one house can and does act as a check on the other, and so prevent the passage of unwise legislation. Whether that widely held view is justified or not, it has proved a major barrier to the spread of one-chamber lawmaking bodies.

Size There may be no ideal size for a legislative body, but two basic considerations are important. First, a legislature, and each of its houses, should not be so large as to hamper the orderly conduct of the people’s business. Second, it should not be so small that the many views and interests within the State cannot be adequately represented.

Focus on the Basics

Here is the information that your students need to learn in this section.

FACTS: • State laws may not conflict with the U.S. Constitution. • Like Congress, nearly all legislatures are bicameral and have presiding officers and committees. • The 50 State constitutions set very different qualifications, terms, pay, and work calendars for their legislators. • In some States, voters can propose bills through initiatives or approve or defeat legislative bills through a referendum vote.

CONCEPTS: representative government, legislative branch, initiative and referendum

ENDURING UNDERSTANDINGS: • State constitutions set up their legislatures according to citizens’ views on the relative power of government. • The initiative and referendum give voters a role in lawmaking.

The upper house in most States has from 30 to 50 members, with as few as 20 senators in Alaska and as many as 67 in Minnesota. The lower house usually ranges between 100 and 150 members. However, there are only 40 seats in Alaska's lower chamber, and New Hampshire's has a whopping 400!

State Legislators

Today, there are 7,382 State legislators—5,411 representatives and 1,971 senators—among the 50 States. Nearly all of them are Republicans or Democrats; fewer than 20 belong to a minor party or are independents.

Qualifications Every State's constitution sets out formal requirements of age, citizenship, and residence for legislators. Most everywhere, a representative must be at least 21 years old and senators must be at least 25. The realities of the politics of the State add informal qualifications far more difficult to meet. They have to do with a candidate's vote-getting abilities, and are based on such things as occupation, name recognition, party, race, religion, national origin, and the like.

Election Everywhere, legislators are chosen by popular vote and, almost everywhere,

candidates for the legislature are nominated at party primaries. Nominees are picked by conventions in only a few States. In Nebraska, the unicameral legislature is organized on a **nonpartisan** basis. Candidates are nominated at nonpartisan primaries, and they are not identified by party in the general election.

In most States, the lawmakers are elected in November of even-numbered years. In four States, however—Mississippi, New Jersey, Virginia, and Louisiana—lawmakers are chosen in the odd-numbered years, in the hope of separating State and local issues from national politics.

Districts Every State's constitution requires that legislators be chosen from districts within the State, and nearly all are now elected from single-member districts. Those districts are drawn by the legislature itself in most States, and they are redrawn (reapportioned) every ten years, in line with the federal census. Gerrymandering is quite common.

Most State legislatures were long dominated by the rural, less-populated areas of the State. In *Baker v. Carr*, 1962, however, the United States Supreme Court held the unfair, unequal distribution of State legislative seats to be a violation of the Equal Protection Clause of the 14th Amendment. That historic

Checkpoint
What are the qualifications for State legislators?

nonpartisan
adj. not belonging to or favoring any political party

BEFORE CLASS

Assign the section, the graphic organizer in the text, and the Reading Comprehension Worksheet (Unit 7 All-in-One, p. 23) before class.

L2 Differentiate Reading Comprehension Worksheet (Unit 7 All-in-One, p. 25)

BELLRINGER

Write on the board: **How are State legislatures similar to the U.S. Congress? How are they different? Answer in your notebook.**

Teach

To present this topic using online resources, use the lesson presentations at **PearsonSuccessNet.com**.

COMPARE AND CONTRAST

Distribute the Chapter 24 Section 2 Core Worksheet (Unit 7 All-in-One, p. 27). Draw a large Venn diagram on the board—or display the Venn Diagram graphic organizer transparency—and label it in the same way as the one on the Core Worksheet. With students, analyze features of State legislatures by comparing and contrasting them with the U.S. Congress. Have students complete their Venn diagram on the Core Worksheet as you discuss each feature. You may want to compare and contrast the following topics:

- Purpose
- Structure
- Member qualifications
- Election process
- Terms
- Compensation
- Powers

L3 Differentiate Refer students to the chapter on the U.S. Congress if they need help recalling its features.

L2 Differentiate Remind students to use the headings in the section to locate information they may need to fill in the Venn diagram.

L1 ELL Differentiate Check that students understand the meanings of the key terms before you begin. Pronounce the more challenging terms, such as *constituent*. Suggest that students add their own phonetic respellings to the definitions they record in their notebooks.

Answers

Checkpoint Representatives must be at least 21 and senators at least 25. There are usually other formal requirements of age, citizenship, and residence.

Caption Young legislators can represent views of younger constituents and might bring fresh ways of approaching problems.

State representatives Alisha Thomas Morgan of Georgia (left) and Justin Davis of South Dakota (right) were in their early 20s when first elected.

What valuable perspectives might young legislators bring to State government?



Chapter 24 • Section 2 715

Differentiated Resources

The following resources are located in the All-in-One, Unit 7, Chapter 24, Section 2:

- L3** Reading Comprehension Worksheet (p. 23)
- L2** Reading Comprehension Worksheet (p. 25)
- L3** Core Worksheet (p. 27)
- L2** Extend Activity (p. 28)
- L3** Quiz A (p. 29)
- L2** Quiz B (p. 30)

IDENTIFY AND ORDER

Have students identify the legislative and nonlegislative powers of the State legislatures. With students, list the powers on the board. Have volunteers offer an example of an application of each power. Then ask: **Which power do you think is the most important and why?** Have the class rank the powers in order of importance by voting on each one. Some students may identify police power as the most important. Explain that although the U.S. Congress has taken on some police power over time, this power is still largely reserved to the States.

L1 L2 ELL Differentiate Clarify that *police* in *police power* does not mean the same as “the police.” The meaning here is more closely related to the term *policy*, which is “a plan or set of laws designed to solve a problem.”

L2 Differentiate Have students rank the powers on their own and use the Think-Pair-Share strategy (p. T22) to let them explain their answers to a partner before sharing with the class.



State law governs many areas of daily life, including, for example, the regulation of drivers' licenses and minimum wage rates above the federal level. **Why are these policies determined at the State level?**

✓ Checkpoint
How long do legislators serve?

decision was soon followed by *Reynolds v. Sims* in 1964. There, the Court held that the Equal Protection Clause requires every State to draw its legislative districts on the basis of population equality.

Terms Legislators are elected to either two-year or four-year terms. Representatives serve two-year terms in 44 States and four-year terms in Alabama, Louisiana, Maryland, Mississippi, and North Dakota. Senators win four-year terms in 38 States (including Nebraska), and only two-year stints in the other 12.

Fifteen States now limit the number of terms any person can serve. In most, the limit is placed on service in each chamber, separately. In a few, the restriction is applied to total legislative service in either house.

The rate of turnover in legislative seats is fairly high, although it tends to vary from State to State and time to time. In a given year, some 20 percent of all lawmakers around the country are serving their first term in office. The major reasons for that turnover appear to be low pay, political instability, and term limits. Lawmakers tend to remain in office longer in those States that pay higher salaries and where one party regularly wins elections.

Compensation Far too often, capable men and women refuse to run for seats in the legislature because of the financial sacrifices that service usually entails. Legislative pay

varies considerably and so the situation is more trying in some States than others. California now pays lawmakers \$116,208 per year, plus benefits. Oregon provides a more typical example of the compensation package. There, the total compensation per member comes to just about \$30,000 per year.

Clearly, decent salaries in line with the responsibilities of the job will not automatically bring the most able men and women into State legislatures. Certainly, better salaries can make public service much more appealing to qualified people.

Sessions Little more than a generation ago, only a handful of State legislatures met in regular sessions each year, and then usually for only a few months or so. Most met only every other year. It has long since become apparent that the legislature's workload cannot be properly handled on so limited a basis.

Today, 44 State lawmaking bodies hold their regular sessions annually, and most of those sessions run for three to five months or more. Several legislatures are now in session nearly year-round.

In every State, the governor, and in three fourths of them the legislature itself, can call the body into special session. Those meetings, most common in States where legislators meet infrequently, allow lawmakers to take up urgent matters between their regularly scheduled sessions.

turnover
n. rate at which people enter and leave a group

Answers

Caption Possible response: so that regulations can meet local conditions and needs (For example, States that have difficulty filling entry-level jobs may choose to pay a higher minimum wage.)

Checkpoint either two- or four-year terms; 15 States have term limits

Background

NEBRASKA'S UNIQUE LEGISLATURE Nebraska's unicameral, nonpartisan legislature resulted largely from the reform efforts of George Norris, who represented Nebraska in the U.S. Congress for more than 40 years. “[T]here is no sense or reason in having the same thing done twice, especially if it is to be done by two bodies of men elected in the same way and having the same jurisdiction,” he insisted. Norris argued that the State supreme court and the governor would provide sufficient checks and balances. Also, unlike the closed-door secrecy of bicameral conference committees, the unicameral legislature would conduct all activities in open forum. In this way, the press and public opinion could check possible abuses. When Nebraska's unicameral amendment took effect in 1937, it abolished one house, reducing the number of legislators on the payroll from 133 to 43—a cost savings of nearly 70 percent.

Powers of the Legislature

No State's constitution lists all of the powers vested in the legislature—nor could it. In each State, the legislature has all of those powers that (1) the State constitution does not grant exclusively to the executive or judicial branches or to local governments, and (2) neither the State constitution nor the United States Constitution denies to it. In effect, most of the powers held by a State are vested in its legislature.

Lawmaking Powers The fact that the legislature can enact any law that does not conflict with any provision in federal law or in the State constitution means that there can be no all-inclusive list of the legislature's powers. Its more important powers are usually set out in the State constitution, however. Those most often mentioned include the powers to tax, spend, borrow, establish courts and fix their jurisdiction, define crimes and provide for their punishment, regulate commercial activities, and maintain public schools.

Every State's legislature possesses the **police power**—the State's hugely important power to protect and promote the public health, public safety, public morals, and the general welfare. Recall, most of what government does in this country today is done by the States (and their local governments), and most of what they do is done through the exercise of the police power. In short, that extraordinarily broad authority is the power to **safeguard** the welfare of the people of the State, and it is the basis for much of what State legislatures do.

Nonlawmaking Powers All 50 State legislatures possess certain nonlegislative powers, in addition to those they exercise when they make a law.

In the separation of powers and checks and balances scheme, the legislature exercises some *executive* powers. It has the power to approve or reject the governor's appointment of a number of officials. In some States, the legislature itself appoints various executive officials.

The legislature also has certain *judicial* powers, capped by the power of impeachment. In every State except Oregon, the legislature

can remove any State officer in the executive or judicial branch through that process. Each chamber also has the power to discipline and even expel one of its own members.

Recall that the legislature plays a significant role in both constitution-making and the constitutional amendment process. When, for example, it proposes an amendment to the State's constitution, it is not making law. It is, instead, exercising a nonlegislative power: the **constituent power**.

Organization and Lawmaking

Both the organization and the procedures of State legislatures are similar to those found in Congress. Much of what legislatures do centers around presiding officers and a committee system.

Presiding Officers Those who preside over the sessions of the States' lawmaking chambers are almost always powerful political figures, not only in the legislature itself but elsewhere in State politics.

The lower house in each of the 49 bicameral bodies elects its own presiding officer, known everywhere as the speaker. The senate chooses its own presiding officer in 27 States; in the other 23, including Nebraska, the lieutenant governor serves as president of the senate. Where the lieutenant governor does preside, the senate selects a president *pro tempore* to serve in the lieutenant governor's absence.

Except for the lieutenant governors, each of these presiding officers is chosen by a vote on the floor of his or her chamber. In fact, the majority party's caucus usually picks those who fill the leadership posts, just before the legislature begins a new term.

The chief duties of these presiding officers revolve around the conduct of the legislature's floor business. They refer bills to committee, recognize members who seek the floor, and interpret and apply the rules of their chamber to its proceedings.

Unlike the Speaker of the House in Congress, the speaker in nearly every State appoints the chair and other members of each house committee. The senate's president or president *pro tem* has that same power in just over half the States. The presiding officers

Checkpoint
Why is the police power important?

DISCUSS THE ESSENTIAL QUESTION

Write the Unit 7 Essential Question on the board: **What level of government has the greatest impact on your life?** Discuss students' ideas about how the State and the National governments affect their lives directly and which level affects them more. Tell students to recall that the police power is reserved to State governments. Ask: **How does the police power affect the lives of the State's citizens?** (*gives State legislatures broad control over local issues of safety and public welfare, giving them great influence over citizens' lives*) **On what level of government do you think most citizens have the greatest impact?** (*Most students will say State and local government.*) **Do citizens have the most control where government has the greatest impact on their lives?** Discuss the importance in a democracy of this relationship between citizens and government.

DISCUSS CITIZEN PARTICIPATION

Discuss the voters' direct role in the legislative process at the State level. Have volunteers name the two types of *initiatives* (*direct and indirect*) and the three types of *referenda* (*mandatory, optional, and popular*) as you write them on the board. (Point out the plural, *referenda*.) Ask: **What types of laws do voters usually want to change? Why do you think this is?** Ask students what types of laws they would like to add or change in their State.

L1 L2 ELL Differentiate Define *referendum* (a process in which a legislature refers a measure to voters for final approval or rejection) and *initiative* (a process in which voters sign petitions to begin a law) for the class.

L3 L4 Differentiate Ask students to write a journal entry that examines the reasons why the initiative and referendum are not used at the national level.

safeguard
v. to protect or ensure

Political Cartoon Mini-Lesson

Display the political cartoon Transparency 24C, Ballot Initiatives, when you discuss direct participation of voters in the lawmaking process. This cartoon illustrates why government officials might be less than thrilled with the initiative process. Ask: **Whom do the people in the cartoon represent?** (*a king and queen or, more broadly, powerful government officials*) **What is happening to these people?** (*They are imprisoned in shackles.*) **What does the cartoon suggest about why government officials might oppose ballot initiatives?** (*Through initiatives, voters can restrain the government's power.*)

Answers

Checkpoint It is the broad authority reserved to the States that has the greatest effect on the daily lives of citizens because it involves issues of public health, safety, morals, and general welfare.

EXTEND THE LESSON

L3 Have students make a fact sheet about their State's legislature, including its origins, official name, structure, qualifications and election of members, terms, and compensation.

L3 Differentiate Display Transparency 24D, Factors Influencing State Legislators, and discuss key influencing factors regarding an issue. Ask: **Which major factor shown here influences decisions State legislators must make about issues?** (*responsibility to many [five] groups*)

L1 L2 ELL Differentiate Ask students to draw a concept web titled "Sources of Bills" using the information under that heading in the text.

L2 Differentiate Distribute the Extend Activity "The State Legislature and You" (Unit 7 All-in-One, p. 28), which asks students to write to their State legislators about issues important to them.

L2 L3 Differentiate Have students work in pairs to design and create a graphic representation of the powers of State legislatures.

L4 Differentiate Instruct students to research the origins, provisions, and status of a bill currently active in their State legislature and report their findings to the class. Ask them to include the source of the bill and who is sponsoring it.

L4 Differentiate Tell students to review the material on the police power in their textbook. Explain that since the New Deal, the U.S. Congress has taken on the police power in certain circumstances. Have students do research and write a short report on one example of when Congress has exercised the police power.

Tell students to go to the Audio Tour to listen to a guided audio tour of the *How Government Works* diagram, "Initiative and Referendum."

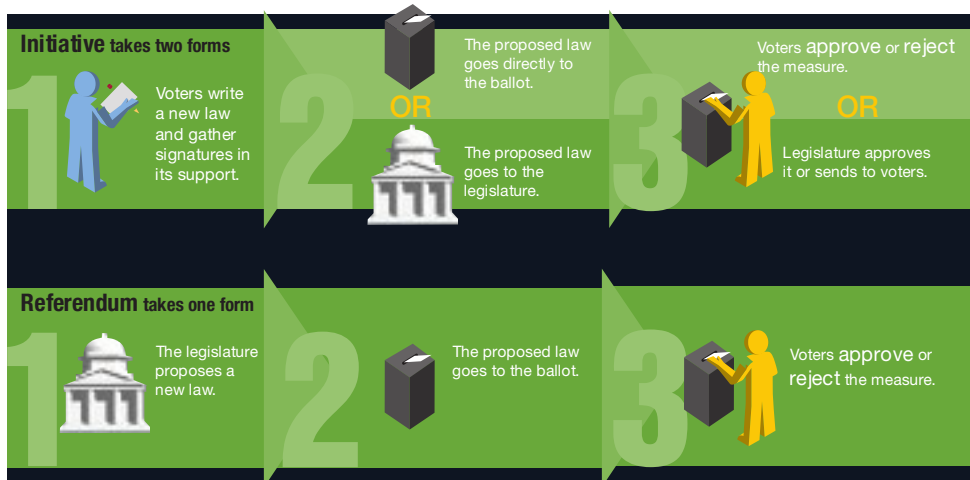
Answers

Initiative and Referendum Legislators may view initiatives as intruding on their power or as interference by people who do not understand the full consequences of their proposals.

Checkpoint refer bills to committee, recognize members who seek the floor, interpret and apply rules of chamber and its proceedings, appoint committee members and chairs

Initiative and Referendum

Voters in many States can write new laws or prevent laws from taking effect through the initiative and the referendum. **Why do you think many legislators oppose the initiative process?**



Checkpoint
What do a legislature's presiding officers do?

regularly use this power much as they do their other powers: to reward their friends, punish their enemies, and otherwise work their influence on the legislature and its product.

Committees Several hundred or, in many larger States, several thousand measures are introduced at each session of the legislature. That flood of bills makes the committee system as practical and necessary at the State level as it is in Congress. Much of the work of the legislature is done in committee, where members sift through that pile of proposed legislation, deciding which bills will go on to floor consideration and which will fall by the wayside.

The standing committees of each house are regularly organized on a subject-matter basis—as committees on finance, education, highways, and so on. A bill referred to one of these committees may be amended or even largely rewritten there. Or, as frequently happens, it may be ignored altogether.

"Pigeonholing" occurs in the States as in Congress. In fact, in most States one of the

standing committees in each house is usually the "graveyard committee." Bills are sent there to be buried. The judiciary committee, to which bills may be referred "on grounds of doubtful constitutionality," often fills this role.⁶

Sources of Bills Legally, only a member may introduce a bill in either house in any State's legislature. So, in the strictest sense, legislators themselves are the source of all measures the legislature considers. In broader terms, however, the lawmakers are the authors of only a handful of bills.

A large number of measures come from public sources, from officers and agencies in the State executive branch, and from local governments. Every State governor has a legislative program, often extensive and bold.

Many bills come from the private sector. Indeed, interest groups appear to be the

⁶ A striking illustration of a graveyard committee existed for several years in landlocked Oklahoma: the Committee on Deep Sea Navigation.

How Government Works

INITIATIVES Have students apply the *How Government Works* diagram, "Initiative and Referendum," on this page to your State or another specific State. Have students identify a State in which voters may propose constitutional amendments or legislation through the initiative process. Ask them to write a brief description of a specific initiative proposed by the people of the State, and answer these questions: **How many supporting signatures were required? Did the initiative go directly to the ballot or to the legislature? Would you support or oppose this initiative? Why? What was the outcome?** For an audio tour of the "Initiative and Referendum" diagram, go to **PearsonSuccessNet.com**.

largest single source of proposed legislation. Remember, those groups and the lobbyists who represent them exist for one overriding purpose: to influence public policy to the benefit of their own particular interests. Of course, some measures do originate with private individuals—business owners, farmers, union members, and other citizens—who, for one reason or another, think, “There ought to be a law. . . .”

Direct Legislation

In several States, voters themselves can take a direct part in the lawmaking process. The main vehicles for that participation are the initiative and the referendum.

Initiative Through the initiative process, voters in 18 States can propose amendments to the State’s constitution. In those States and six others, they can also use that process to propose ordinary statutes. The initiative takes two quite different forms: the more common direct initiative and the little-used indirect initiative.

In both forms, a certain number of qualified voters (which varies from State to State) must sign petitions to initiate a law. Where the direct initiative is in place, a measure with sufficient signatures goes directly to the ballot, usually in the next general election. If voters approve the measure, it becomes law. If not, it dies. Where the indirect form is found,

a proposed measure goes first to the legislature. If that body approves the measure, it becomes law. If the legislature fails to pass it, the measure then goes to the voters.

Referendum A **referendum** is a process in which the legislature refers a measure to the voters for final approval or rejection. The referendum takes three different forms: mandatory, optional, and popular.

A **mandatory referendum** occurs in those situations in which the legislature must send a measure to the voters. Recall, in every State except Delaware, a proposed constitutional amendment must be submitted to the electorate. In several States some other measures, such as providing for the borrowing of funds, must also go to the voters.

An **optional referendum** involves a measure that the legislature has referred to the voters voluntarily. Such measures are rare. They usually involve “hot potato” issues: issues that lawmakers would prefer not to take direct responsibility for deciding themselves.

Under the **popular referendum**, a group of citizens may demand by petition that a measure passed by the legislature be referred to the voters for final action. Most attempts to use this form of the referendum fail. Most often, the opponents of a particular measure simply cannot gather the required number of signatures to force a popular vote on the target of their ire.

Checkpoint
What is direct legislation?

initiate
v. to begin, launch, set in motion

ire
n. anger, outrage

Essential Questions Journal
To continue to build a response to the chapter Essential Question, go to your **Essential Questions Journal**.

SECTION 2 ASSESSMENT

1. Guiding Question Use your completed table to answer this question: What are the defining traits and purpose of State legislatures?

Key Terms and Comprehension
2. What are the purposes of the **police power**?

3. What three nonlegislative powers does a State legislature have?

Critical Thinking

4. Demonstrate Reasoned Judgment Do you think that State legislators should be paid a generous salary? Why or why not?

5. Analyze Information Would you support an amendment to your State’s constitution that would provide for a unicameral legislature? Why or why not?

Quick Write

Explanatory Writing: Organize Your Ideas Review your list of questions and loosely categorize them under various topics, such as “State Legislatures” or “Powers of the Executive.” Select two or three categories that relate most closely to the concept of the effects of State governments on the lives of citizens. Use your textbook or other resources to take notes to answer each of the questions under your selected categories.

Assessment Answers

1. State legislatures are the lawmaking bodies in the States. They vary in size and structure. All but Nebraska are bicameral. Legislators are selected by popular vote. Qualifications, terms, and compensation vary, as do the length and frequency of sessions. State legislatures have legislative powers—especially the police power, which is reserved to them—as well as nonlegislative powers, which include executive powers, judicial powers, and constituent powers. State legislatures are organized much as the U.S.

Congress is, with presiding officers and a committee system.

2. to protect and promote public health, safety, morals, and general welfare

3. executive powers, such as approval of governor’s appointments; judicial powers, such as the power of impeachment; constituent powers, such as revising and amending the State’s constitution

4. Answers will vary. Students may cite the need to attract the best candidates for these important positions with appropriate compensation.

5. Answers should consider the main argument on both sides: in a bicameral legislature, one house acts as a check on the other; in a unicameral legislature, lawmaking might be more efficient.

QUICK WRITE A strong assignment will include reasonable categories and answers relating State government actions to the lives of citizens.

Assess and Remediate

- L3** Check students’ work on the Core Worksheet. (Unit 7 All-in-One, p. 27)
- L3** Assign the Section 2 Assessment questions.
- L3** Section Quiz A (Unit 7 All-in-One, p. 29)
- L2** Section Quiz B (Unit 7 All-in-One, p. 30)

Have students complete the review activities in the digital lesson presentation and continue their work in the **Essential Questions Journal**.

REMEDIATION

If Your Students Have Trouble With	Strategies For Remediation
The defining traits and purposes of State legislatures (Questions 1, 2, 3, 5)	On the board, draw a table similar to the one in the section opener. Review with students the information they recorded on State legislatures about their structure, powers, and features. Tell students to add any information they did not already have in their own charts.
Compensation of State legislators (Question 4)	Have groups find out how much the legislators are paid in their State and then compare the legislators’ pay rates with those of other jobs.

Answers

Checkpoint the direct participation of voters in the lawmaking process

GUIDING QUESTION

What are the roles and powers of a governor?

Roles and Responsibilities		
Executive	Legislative	Judicial
<ul style="list-style-type: none">• carry out laws• appoint/remove subordinates• supervise executive branch• prepare budget• commander in chief of State's National Guard	<ul style="list-style-type: none">• recommend legislation• call special sessions• veto legislation	<ul style="list-style-type: none">• powers of clemency: pardon, commute, reprieve, parole

Get Started

LESSON GOALS

- Students will . . .
- complete a chart to examine the powers of a State governor.
 - complete a worksheet to compare and contrast State governorships with the U.S. presidency.
 - participate in a mock meeting to investigate the roles and responsibilities of State executive officers.

BEFORE CLASS

Assign the section, the graphic organizer in the text, and Reading Comprehension Worksheet (Unit 7 All-in-One, p. 31) before class.

L2 Differentiate Reading Comprehension Worksheet (Unit 7 All-in-One, p. 33)

SKILLS DEVELOPMENT

PROBLEM SOLVING

To practice problem solving in this section, use the Chapter 24 Skills Worksheet (Unit 7 All-in-One, p. 37). You may teach the skill explicitly before students begin studying about State governors. For L2 and L1 students, assign the adapted Skill Activity (Unit 4 All-in-One, p. 38).

SECTION 3

The Governor and State Administration



Guiding Question
What are the roles and powers of a governor? Use a chart to identify the roles and responsibilities of a governor.

Roles and Responsibilities		
Executive	Legislative	Judicial
<ul style="list-style-type: none">• Carry out laws••	<ul style="list-style-type: none">•••	<ul style="list-style-type: none">•••

- Political Dictionary**
- recall
 - item veto
 - clemency
 - pardon
 - commutation
 - reprieve
 - parole

- Objectives**
1. Describe the main features of the office of governor.
 2. Summarize a governor's roles, powers, duties, and the limitations of the office.
 3. List and describe the other executive offices at the State level.

Image Above: Governor M. Jodi Rell, Republican of Connecticut, signs a bill into law.

The governor is the principal executive officer in each of the 50 States. He or she is always a central figure in State politics and is often a well-known national personality as well. Governors today occupy an office that is the direct descendant of the earliest public office in American politics, the colonial governorship, first established in Virginia in 1607.

The Governorship

In colonial America, the actions of the royal governors inspired much of the resentment that fueled the Revolution. That attitude was carried over into the first State constitutions. Most of the powers of government were given to the legislatures; the new State governors, for the most part, had little real authority. In every State except Massachusetts and New York, the governor was chosen by the legislature, and in most of them only for a one-year term. And only in three States did the governor have a veto power.

That original separation of powers soon proved unsatisfactory. Many of the State legislatures abused their powers. Several fell prey to special interests, and the governors were unable to respond. So, as new constitutions were written, and the older ones revised, the powers of the legislatures were curbed and the powers of the governors generally increased.

Beginning with Illinois in 1917, most States have redesigned and strengthened the executive branch to make the governor the State's chief executive in more than name. Some States have gone further than others in this direction, but, overall, governors are much more powerful figures today than in decades past.

Qualifications Anyone who wants to become the governor of a State must be able to satisfy a set of formal qualifications. Typically, he or she must be an American citizen, of at least a certain age (usually 25 or 30), have lived in the State for a given period of time (most often for at least five years), and be a qualified voter. Clearly, these formal qualifications for office are not very difficult to meet. It is the informal qualifications that have real meaning. To become a governor, a person must have those characteristics that will first attract a party's nomination, and then attract the voters in the general election.

Focus on the Basics

Here is the information that your students need to learn in this section.

FACTS: • The governor leads the State's executive branch. • State constitutions have strengthened the job of governor over time. • In addition to executive powers, the governor has legislative and judicial powers. • In most States, the governor shares executive power with other elected officials, such as the lieutenant governor, secretary of state, state treasurer, and attorney general.

CONCEPTS: separation of powers, federalism, leadership

ENDURING UNDERSTANDINGS: • The presidency and governorships have many similarities, but most governors share executive power with other elected officials. • Governors possess some legislative and judicial powers.

Those characteristics vary from State to State, and even from election to election within a State. Race, sex, religion, name recognition, personality, party identification, experience, ideology, the ability to use television effectively—these and several other factors are all part of the mix.

Today, most governors are attorneys in their 40s and 50s. Nearly all of them were State legislators or held another elective office in the State, such as lieutenant governor, attorney general, or mayor of a large city. California's "governor," Arnold Schwarzenegger, is a leading illustration of the fact that someone who has never held public office does sometimes win a governorship.

The first gubernatorial elections occurred in 1775 and more than 2,500 persons have now served as governors of the various States. To this point (2009), only 30 of those governors have been women, and eight of those 30 are in office today.

Two women won governorships in 1924: Nellie Taylor Ross in Wyoming and Miriam "Ma" Ferguson in Texas. They were the first of several women to succeed their husbands as governors. Over the past 30 years, a growing number of women have won the office on their own. Eight women currently hold office, and recent woman governors have included Janet Napolitano (D., Arizona), Jennifer Granholm (D., Michigan), M. Jodi Rell (R., Connecticut), and Sarah Palin (R., Alaska).

Only two African Americans have ever won the office. These two governors were L. Douglas Wilder (D., Virginia) in 1989, and Deval Patrick (D., Massachusetts) in 2006.

Selection The governor is chosen by popular vote in every State. In all but five, only a **plurality** is needed for election. If no candidate wins a clear majority in Arizona, Georgia, or Louisiana, the two top vote-getters meet in a runoff election. If no one wins a majority in Mississippi, the lower house of the legislature picks the new governor. In Vermont, both houses make the choice.

The major parties' gubernatorial candidates are usually picked in primaries. In a few States, however, conventions choose the nominees. Nearly half the States now provide for the joint election of the governor and the

lieutenant governor. In those States, each party's candidates for those offices run as a team, and the voter casts one vote to fill both posts.

Term The one-year gubernatorial term has long since disappeared. Governors are now chosen to four-year terms nearly everywhere. Thirty-six States limit the number of terms a governor may serve, usually to two terms.

Governors who do run for another term most often win. Five four-term governors hold the modern record for gubernatorial service—16 years.⁷

Succession Governors are mortal. Occasionally, one of them dies in office. Many of them are also politically ambitious. Every so often, one resigns in midterm—to become a United States senator or to accept a presidential appointment, for example.

When a vacancy does occur, it sets off a game of political musical chairs in the State. The political plans and timetables of ambition of a number of public personalities are affected by the event. No matter what causes a vacancy, every State's constitution provides for a successor. In 44 States the lieutenant governor is first in line. In Maine, New Hampshire, and West Virginia, the president of the senate succeeds. In Arizona, Oregon, and Wyoming, the office passes to the secretary of state.

Removal The governor may be removed from office by impeachment in every State except Oregon. Only five governors have been impeached and removed since the **turbulent** Reconstruction years after the Civil War. Only one—Arizona's Evan Mecham in 1988—has suffered that fate in the past 70 years.

In 18 States, the governor may be recalled by the voters.⁸ The **recall** is a petition procedure by which voters may remove an elected

Checkpoint
What are common characteristics of governors?

gubernatorial
adj. of or relating to a governor

turbulent
adj. disorderly, stormy

plurality
n. the largest total

- 7 The all-time record for both gubernatorial service and electoral success belongs to George Clinton of New York. He sought and won seven three-year terms as governor and held the office from 1777 to 1795 and again from 1801 to 1804. He was later Vice President of the United States, from 1805 to 1812.
- 8 Alaska, Arizona, California, Colorado, Georgia, Idaho, Kansas, Louisiana, Michigan, Minnesota, Montana, Nevada, New Jersey, North Dakota, Oregon, Rhode Island, Washington, Wisconsin.

BELLRINGER

Write the following on the board: **A majority of U.S. presidential candidates and many Presidents have been governors. Why do you think voters often select former governors as President? Answer in your notebook.**

L2 Differentiate Rephrase the directions. Ask: **Do you think a governor or a U.S. Senator would make a better President? Explain your choice in your notebook.**

Teach

To present this topic using online resources, use the lesson presentations at **PearsonSuccessNet.com**.

INTRODUCE THE TOPIC

Tell students that they will discuss the main executive officers at the State level, including the governor. On the board, draw a three column chart titled "Powers of a State Governor." Label the sections "Executive Powers," "Legislative Powers," and "Judicial Powers." Have students complete the chart by adding examples of each type of power mentioned in the text. Discuss with students how these powers enable a governor to run a State.

L2 ELL Differentiate Have students create vocabulary flash cards for terms in the Political Dictionary, with the term on one side and the definition from the Glossary on the other, and work with partners to test their knowledge.

COMPARE A GOVERNORSHIP AND THE PRESIDENCY

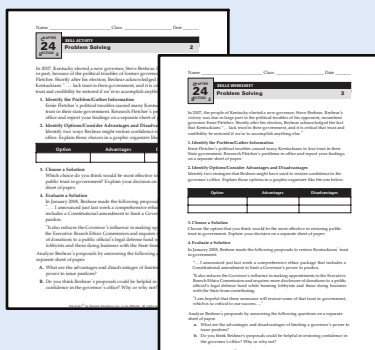
Remind students of the role of the executive branch in the National Government—that the President is *the* executive in the National Government, while a governor is the *chief* executive in the State's government. Based on their answers to the Bellringer question, discuss with students how being a governor might prepare a person to be President. Have students identify powers listed in the chart that both positions share, and circle them.

L1 L2 Differentiate Tell students to copy the chart in their notebooks to help them study for assessments on the topic.

Differentiated Resources

The following resources are located in the All-in-One, Unit 7, Chapter 24, Section 3:

- L3** Reading Comprehension Worksheet (p. 31)
- L2** Reading Comprehension Worksheet (p. 33)
- L3** Core Worksheet A (p. 35)
- L3** Core Worksheet B (p. 36)
- L3** Skills Worksheet (p. 37)
- L2** Skill Activity (p. 38)
- L3** Quiz A (p. 39)
- L2** Quiz B (p. 40)



Answers

Checkpoint attorneys in their 40s and 50s, former State legislators or holders of other elective State offices, male, white

DISTRIBUTE CORE WORKSHEET A

Distribute Chapter 24 Section 3 Core Worksheet A (Unit 7 All-in-One, p. 35). Explain to students that they will use the worksheet to compare and contrast the job of a governor and that of the U.S. President. Students should complete the chart and formulate an answer to the worksheet question. If your classroom has Internet access, you may wish to have students complete the chart using specific information for your State.

NAME _____ CLASS _____ DATE _____

CHAPTER 24

CORE WORKSHEET A

SECTION 3

The Governor and State Administration

3

The National and State Chief Executives

Complete the chart below to compare and contrast roles, duties, and other features of the U.S. presidency and a State governorship. Then answer the questions that follow.

	President	State Governor
Qualifications		
Selection		
Term		
Main roles		
Succession		
Executive or cabinet departments		

In general, how is a State governorship similar to the presidency? How is it different?

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Government
online

All print resources are available on the Teacher's Resource Library CD-ROM and online at PearsonSuccessNet.com.



►► **Analyzing Political Cartoons** In 2003, California voters had to choose whether to recall the governor and which of 135 candidates should replace him in a special double election. *Why did the cartoonist include a clown among the candidates?*

intangible
n. something that is not concrete or easily defined

official from office before the completion of his or her regular term. The process generally works this way: If a certain number of qualified voters—usually 25 percent of the number who voted in the last election held for the office—sign recall petitions, a special election must be held in which the voters decide whether to remove or instead, retain, the officeholder.

To this point, only two governors have ever been recalled: Governor Lynn J. Frazier of North Dakota, a Republican, in 1921, and Governor Gray Davis of California, a Democrat, in 2003.

Compensation In many respects, a governor's job is not unlike that of the chief executive officer of one of the nation's larger corporations. Both administer hugely complex organizations, manage the work of thousands of employees, and oversee the spending of incredible amounts of money. Governors are not paid nearly so well as the CEOs of large companies, however. The latter make tens of millions of dollars per year in salary and benefits.

In contrast, most governors earn little more than \$100,000 per year. Salaries now range from \$70,000 per year in Maine and \$85,000 in Tennessee to \$206,500 in California. Most States provide their chief executive with an official residence, often called

fragmented
adj. split, separated into many pieces

a governor's mansion, and money for travel and other expenses.

To the governor's salary and other material compensations must be added the **intangibles** of honor and prestige that go along with the office. It is this factor, and a sense of public duty, that often persuades many of our better citizens to seek the office. Several Presidents were governors before reaching the White House, including Bill Clinton and George W. Bush.

A Governor's Many Roles

Much like the President, a governor plays a number of different roles. He or she is, simultaneously, an executive, an administrator, a legislator, a party leader, an opinion leader, and a ceremonial figure. What the office amounts to depends, in no small part, on how well the governor plays each—and all—of these roles. And that must depend, in turn, on his or her personality, political muscle, and overall abilities.

Many of a governor's formal powers are hedged with constitutional and other legal restrictions. Nonetheless, the powers a governor does have, together with the prestige of the office, make it quite possible for a capable, dynamic person to be a "strong" governor, one who can accomplish much for the State and for the public good.

Executive Powers

The presidency and the governorships are similar in several ways, but the comparison can be pushed too far. Remember, the Constitution of the United States makes the President the executive in the National Government. State constitutions, on the other hand, regularly describe the governor as the *chief executive* in the State's government. The distinction here, between *the* executive and the *chief executive*, is a critical one. The executive authority is **fragmented** in most States, but it is not at the national level.

In nearly every State, the executive authority is shared by a number of "executive officers"—a secretary of state, an attorney general, a treasurer, and so on. Most of these executive officers are, like the governor,

Background

SUCCESSION Before 2005, New Jersey had no lieutenant governor. A vacancy in the governorship was filled by the president of the senate, who continued to serve as senator—thus sidestepping the separation of powers. In those cases, the same person could sponsor a bill and then sign it into law. When Governor Christie Whitman stepped down early, the senate president served as acting governor until his term expired a week before newly elected Governor James McGreevey was sworn in. The new senate president should have filled the governor's role until McGreevey took office, but because the legislature was evenly divided between parties, the senate presidency was shared. The two men agreed to split the week, each serving as governor for three and a half days. Four governors in one week prompted officials to move toward creating the position of lieutenant governor.

Answers

Analyzing Political Cartoons to emphasize the ridiculousness of having so many candidates and to poke fun at the politically ambitious pretenders

popularly elected, and for that reason, very largely beyond the governor's direct control.

In short, most State constitutions so divide the executive authority that the governor can best be described as a "first among equals." Yet, whatever the realities of the distribution of power, the people look to the governor for leadership in State affairs. It is also the governor whom they hold responsible for the conduct of those affairs and for the overall condition of the State.

The governor's basic legal responsibility is regularly found in a constitutional provision that directs the chief executive to "take care that the laws be faithfully executed." Though the executive power may be divided, the governor is given a number of specific powers with which to accomplish that task.

Appointment and Removal The governor can best execute the law with subordinates of his or her own choosing. Hence, the powers of appointment and removal are, or should be, among the most important.

A leading test of any administrator is his or her ability to select loyal and able assistants. Two major factors work against the governor's effectiveness here, however. First is the existence of those other elected executives; the people choose them and the governor cannot remove them. Second, the State's constitution and statutes place restrictions on the governor's power to hire and fire. Most State constitutions require that the majority of the governor's major appointees be confirmed by the State senate.

Moreover, the legislature often sets qualifications that must be met by the governor's appointees. In a vigorous two-party State, for example, the law often requires that not more than a certain number of the members of each board or commission be from the same political party. Thus, a governor must appoint some members of the opposing party to posts.

Administering the Executive Branch

The governor is the State's chief administrator. Alone and unaided, he or she could not possibly "take care that the laws be faithfully executed." The day-to-day work of enforcing the State's laws, of performing its many functions, and of delivering its many services is done by

the thousands of men and women in all of the agencies that make up the executive branch. The governor must supervise that work.

Here again, the constitution and statutes of the State often limit a governor's authority. Many agencies are subject to his or her direct control, but many are not. That situation puts a **premium** on the governor's powers of persuasion and on his or her ability to operate through such informal channels as party leadership and appeals to the public.

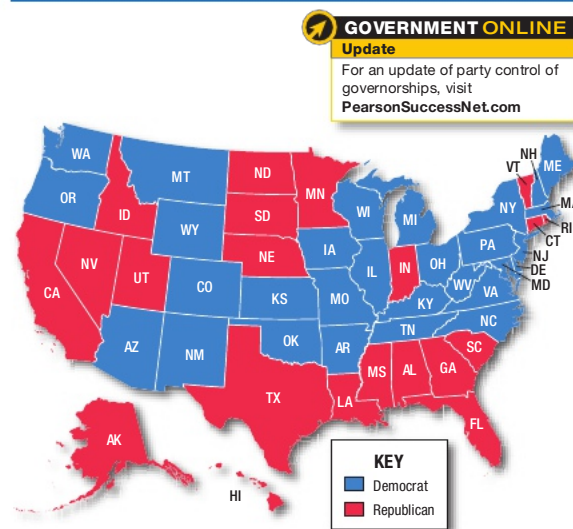
The Budget Always remember: A government's budget is much more than a mere bookkeeping exercise. It is a political document, a statement of public policy. Its numbers reflect the struggle over "who gets what" and who doesn't.

In most States the governor prepares the budget that goes to the legislature. The lawmakers can make changes in the governor's financial plan. Still, the governor's recommendations carry a great deal of weight.

Checkpoint
What are a governor's executive powers?

premium
n. high value

Party Control of Governorships, 2009



Analyzing Maps The two major parties compete in gubernatorial elections in every State. **Which party did your State's governor belong to in this year?**

HOLD MOCK EXECUTIVE BRANCH MEETINGS

Assemble the class into five groups, each representing one of the five State government executive officers mentioned in the text: governor, lieutenant governor, secretary of state, treasurer, and attorney general. Have students create a list of questions that will help them to define the role of their subject, such as:

- Does this executive office exist in your State?
- Is the officer elected or appointed?
- How long is the term?
- What are the main duties and concerns of this officer?
- Which departments does the person oversee or interact with?
- What are the legislative involvements, if any?

Then distribute Chapter 24 Section 3 Core Worksheet B (Unit 7 All-in-One, p. 36) to all students. Assign one student from each group to a mini-meeting of the executive branch. Tell students to suppose that this is the first meeting of a new administration. Have students role play, explaining their main responsibilities and at least one thing they want to accomplish or the main problem they want to solve while in office.

As students meet in their groups, circulate around the classroom to keep students on task and to ensure that each student in the group has a chance to present. Remind students that they must fill in their worksheet charts as each group member speaks.

EVALUATE THE MEETINGS

When the mini-meetings are concluded, have each group name the three top projects or items they wanted to address first and list them on the board. Compare and discuss each group's items. Are there any similarities? Was it hard for group members to come to an agreement on which problems to address first? How did the roles and responsibilities of each member direct his or her priorities? Which officers were more likely to work together? Which were least likely?

Tell students to go to the Online Update for an update of party control of governorships.

Answers

Checkpoint execute laws; appoint and remove subordinates; supervise executive branch; prepare the budget; commander in chief of State's National Guard

Analyzing Maps Answers will vary.

Political Cartoon Mini-Lesson

Display the political cartoon Transparency 24E, Man in Charge, when you discuss the executive powers of the governor. This cartoon shows the massive Arnold Schwarzenegger facing a devastated California treasury. Ask: **Who is the man in charge?** (Governor Arnold Schwarzenegger of California) **What major problem does he face?** (The State treasury is in ruins, meaning that funds are short.) **What executive power of the governor will this problem affect most?** (budget preparation)

EXTEND THE LESSON

L3 L4 Differentiate Have students research to gather data about all the women who have ever served as a State governor. Then have students use that data to make a map titled “Women Governors in U.S. History.” Students should also design a key for their maps.

L1 Differentiate Direct students to create a “My State’s Governor” information sheet, in which they list the governor’s name, party, date elected to office, length of term, number of terms so far, and at least three major initiatives or accomplishments. Have students complete the activity by answering these questions: **Has this governor done a good job? Why or why not?**

L2 ELL Differentiate Tell students to make a chart like the one on Core Worksheet A that compares the job of one of the State officers covered in this section to positions with parallel roles or titles in the federal government. For example, students might compare the roles of the U.S. Attorney General with the role of a State attorney general or lieutenant governor to Vice President.

L2 Differentiate Ask students to find a news story about your State’s governor. Tell them to write a phrase or sentence identifying any powers mentioned in the article that they learned about in this section and tell how they are being applied.

L4 Differentiate Have students analyze the prior jobs of all U.S. Presidents and group them into categories. For example, which U.S. Presidents had been governors, Senators, military leaders, or “other”? Tell students to use the data to create a bar graph or circle graph, and write a summary to explain what it shows about who becomes a U.S. President. Encourage students to analyze their findings and explain any changes that may have occurred throughout U.S. history.

reluctant
adj hesitant, unwilling

The governor’s budget-making power can be a highly effective tool with which to control State administration. Although unable to appoint or remove the head of a particular agency, for example, the governor can use the budget-making power to affect that agency’s programs and have a real impact on those who work in that agency.

Military Powers Every State’s constitution makes the governor the commander in chief of the State militia—in effect, of the State’s units of the National Guard. The National Guard is the organized part of the State militia. In a national emergency, the National Guard may be “called up,” ordered into federal service by the President.

All of the States’ National Guard units were federalized in 1940 and served as part of the nation’s armed forces in World War II. Many units also saw combat duty in Korea, Vietnam, and the Persian Gulf War. Today, National Guard units are on duty in such far-flung places as Bosnia, Kosovo, Afghanistan, and Iraq. Indeed, the Defense Department has relied very heavily on the Guard in the prosecution of recent wars.

When the State’s Guard units are not in federal service (which is most of the time), they are commanded by the governor. On occasion, governors find it necessary to call out the Guard to deal with such emergencies as prison riots, to help fight a dangerous forest fire, to aid in relief and evacuation after a flood, to prevent looting during and after some other natural disaster, and so on.

Legislative Powers

The State’s principal executive officer exercises three significant legislative powers. Those powers, together with the chief executive’s personality, popularity, and political muscle, can make the governor, in fact, the State’s chief legislator.

The Message Power Essentially, the message power is the power to recommend legislation. Remember, much of what lawmakers do is prompted by what the governor has urged them to do. The most effective governors push their wish lists by combining their

use of the formal message power with such informal tactics as close contacts with key legislators and appeals to the public.

Special Sessions The governor in every State has the power to call the legislature into special session. As you know, that power is meant to permit the State to meet extraordinary situations. It can also be an important part of the governor’s legislative arsenal. On many occasions, governors have persuaded reluctant lawmakers to pass a particular bill by threatening to call them back in a special session if they adjourn their regular meeting without having approved that measure.

The Veto Power Every governor can veto measures enacted by the legislature. The veto power—including the timely use of threats to invoke the power—can be very useful to the governor as he or she tries to influence what the legislature does or doesn’t do.

In most States, the governor has only a very few days in which to sign or veto a bill—most often, five. If no action is taken within the prescribed period, the measure becomes law without his or her signature.

Only 11 States give the governor a pocket veto.⁹ So, in most States, those bills a governor neither signs nor vetoes become law. Forty-four States give the governor the **item veto**—the power to eliminate one or more items from a bill without rejecting the entire measure. It is used most often on spending measures.

As in the Federal Government, the legislature may attempt to override a veto. In most States, a veto requires a two-thirds majority in both houses.

Judicial Powers

In every State the chief executive has some authority of a judicial nature. Principally, the governor has various powers of executive **clemency**: powers of mercy that may be shown to persons convicted of crime.

With the power of **pardon**, the governor may relieve someone of the legal consequences of a crime. In most States, a pardon

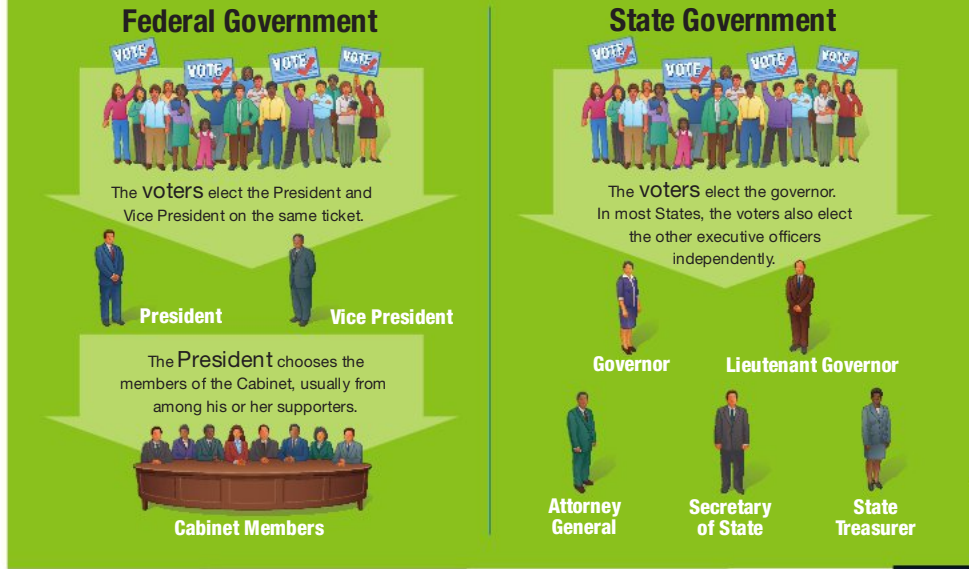
⁹ Alabama, Delaware, Iowa, Kansas, Massachusetts, New Mexico, New York, Ohio, Oklahoma, Vermont, Virginia

Background

THE WALLACES OF ALABAMA Lurleen Wallace of Alabama was the third female governor ever elected in the United States. Oddly enough, her term fell between two of her husband’s. George Wallace was governor of Alabama for two terms, including terms both before and after Mrs. Wallace’s term. When he was elected, Alabama State law prohibited a governor from serving two consecutive terms in office. As a result, Mrs. Wallace ran for office as a representative of her husband, intending to carry out all his policies for him. Although she did accomplish this, she also pushed for several of her own programs, including more funding for State mental hospitals.

Choosing Executive Officers

Many jobs that are filled by presidential appointment in the Federal Government are decided by elections at the State level. *How does the direct election of executive officers empower voters in State government?*



may be full or conditional, and usually it can be granted only after conviction. The power of **commutation** may be used to **commute** a sentence imposed by a court. Thus, a death sentence might be commuted to life in prison, or a sentence might be commuted to "time served," releasing a prisoner from custody.

The power to **reprieve** can be used to postpone the execution of a sentence. Reprieves are normally granted for very brief periods, for example, to allow time for an appeal or because of the late discovery of new evidence in a case. The power of **parole** permits the release of a prisoner short of the completion of a sentence.

The governor may have some or all of these powers of executive clemency. They are often shared, however. For example, the

governor may share the power to pardon with an appointed board of pardons.

Governors have not often abused their clemency powers, but in her first term (1925–1927), Governor Miriam "Ma" Ferguson of Texas pardoned 3,737 convicted felons, an average of more than five per day.¹⁰ The pardons came so thick and fast that several Texas

commute
v. to reduce, make less severe

¹⁰ Governor James "Pa" Ferguson was impeached and removed by the Texas legislature in 1917. He was later pardoned by the legislature and soon announced that he would run for the governorship again. The State Supreme Court ruled the legislative pardon unconstitutional, however. All of that prompted "Ma" Ferguson to run for governor in 1924. She vented her anger over the treatment of her husband in other ways, too—for example, by refusing any and all extradition requests from other States. Mrs. Ferguson was defeated for reelection in 1926, but did win another two-year term in 1932.

Tell students to go to the Audio Tour to listen to a guided audio tour of the *How Government Works* diagram, "Choosing Executive Officers."

Assess and Remediate

L3 Collect and grade students' work on Core Worksheets A and B using the Rubric for Assessing Performance of an Entire Group (Unit 7 All-in-One, p. 125).

L3 Assign the Section 3 Assessment questions.

L3 Section Quiz A (Unit 7 All-in-One, p. 39)

L2 Section Quiz B (Unit 7 All-in-One, p. 40)

Have students complete the review activities in the digital lesson presentation and continue their work in the **Essential Questions Journal**.

Background

ATTRACTING JOBS For governors, persuading corporations to locate in their State means jobs for their constituents and a boost for the State's economy. In recent years, Michigan has experienced one of the nation's highest unemployment rates. Governor Jennifer Granholm set her sights on easing this problem. In 2005, she traveled to Nagoya, Japan, to try to entice Toyota to build its planned new factory in Michigan, the heart of America's depressed auto industry. To sweeten the deal, the State legislature authorized \$50 million in incentives. Granholm also used her influence to help Toyota obtain the land it wanted to expand its technical center in Ann Arbor. However, in late 2007, Toyota selected Mississippi for its new factory to open in 2010, lured by Governor Haley Barbour and incentives worth \$296 million.

Answers

Choosing Executive Officers Direct election makes top officials accountable to the voters. Appointees are more accountable to the executive who appointed them.

REMEDIATION

If Your Students Have Trouble With	Strategies For Remediation
Roles and responsibilities of a governor (Questions 1, 2, 3)	Make a table on the board listing the roles and powers—executive, legislative, and judicial—of a governor. Ask for examples of gubernatorial actions under each.
Changes in the position and power of the governor since the first State constitutions were written (Question 4)	Have students work with partners and make a before/after chart. They should scan the text under “The Governorship” and record information in the chart about changes in the roles and powers of governors from the early history of the nation.
Appointment of executive officers (Question 5)	Have students reread the text under the heading “Appointment and Removal.” In small groups, have students debate whether or not executive officers should be appointed or elected. As part of the discussion, have groups make a pro/con chart on the issue.

Answers

Checkpoint grants pardons, commutes court sentences, grants reprieves, and paroles prisoners

Assessment Answers

- 1. Executive:** carry out laws, appoint/remove subordinates, supervise executive branch, prepare budget, commander in chief of State’s National Guard; **Legislative:** recommend legislation, call special sessions, veto; **Judicial:** grant clemency; **Miscellaneous:** receive visitors, dedicate public spaces, open State fair, give speeches, help settle labor disputes, represent State interests, endorse causes
- 2.** appointment and removal, supervising the executive branch, budget-making, and being commander of the State’s National Guard

- 3.** *Clemency* is mercy shown to a person convicted of a crime. *Pardon* is relieving a person of the legal consequences of a crime. *Commutation* is reducing a sentence imposed by a court. *Reprieve* is postponing the execution of a sentence. *Parole* is allowing the release of a prisoner short of completing a sentence.
- 4.** Because the early State constitutions were based on events leading to the American Revolution, most governors had limited power and many were chosen by the legislature. This original separation of powers proved unsatisfactory,

- and as time passed, constitutions were changed to increase the power of the governors.
- 5.** possible answers: no, because appointment by the governor would place too much control in the hands of the executive; yes, because authority would be less fragmented and the governor might be able to accomplish more working with people he or she had appointed
- QUICK WRITE** A strong assignment will include many examples and details about the influence of the State government on the students’ lives in support of their selected questions.

Checkpoint
What are a governor’s
judicial duties?

newspapers ran daily “pardon columns” rather than separate news stories.

Miscellaneous Duties

In addition to the exercise of executive, legislative, and judicial powers, every chief executive must perform several other, often time-consuming duties. These duties are only hinted at by a listing of the powers of the office.

Among many other things, the governor receives official visitors and welcomes other distinguished personalities to the State, dedicates parks and public and private buildings, opens the State fair, and addresses countless organizations and public gatherings. Beyond those chores, he or she is often called upon to settle labor disputes, travel elsewhere in the country and sometimes abroad to promote the State and its trade interests, endorse any number of worthy causes, and on and on.

Other Executive Officers

In every State, the governor must share control of the administration with a number of other executive officers. Most of those other officials are, like the governor, chosen by voters. The following four positions may be found in most, but not all, State governments.

The lieutenant governor must be ready to succeed to the governorship should a vacancy

occur, and, in half the States, presides over the senate. The office can be a stepping-stone to the governorship by succession or by future elections. It remains, in many places, not much more than a part-time job.

The secretary of state serves as the State’s chief clerk and records-keeper. He or she has charge of a great variety of public documents, records the official acts of the governor and the legislature, and usually administers the election laws.

The treasurer is the custodian of State funds, often the State’s chief tax collector, and regularly the State’s paymaster. Other names for this position include chief financial officer, director of finance, the commissioner of finance, and the comptroller of public accounts. The treasurer’s major job is to make payments out of the State treasury to pay salaries and bills associated with State government.

The attorney general is the State’s chief lawyer. He or she acts as the legal advisor to State officers and agencies as they perform their official functions, represents the State in court, and oversees the work of local prosecutors as they try cases on behalf of the State.

Much of the power of the office centers on the attorney general’s formal written interpretations of constitutional and statutory law. These interpretations, called opinions, are issued to answer questions raised by officials regarding the lawfulness of their actions or proposed actions.

SECTION 3 ASSESSMENT

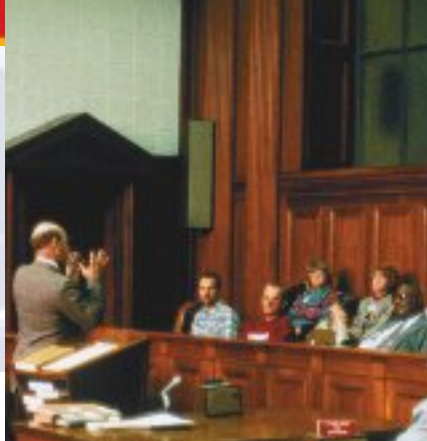
Essential Questions Journal
To continue to build a response to the chapter Essential Question, go to your Essential Questions Journal.

- 1. Guiding Question** Use your completed chart to answer this question: What are the roles and powers of a governor?
- Key Terms and Comprehension**
- 2.** What executive powers do most governors have?
- 3.** Briefly explain each of a governor’s judicial powers: **clemency, pardon, commutation, reprieve, and parole.**
- Critical Thinking**
- 4. Summarize** How has the position and power of the governor relative to the legislature evolved since the first State constitutions were written?
- 5. Identify Central Issues** Should the governor of your State be able to appoint the other executive officers now chosen by voters? Why or why not?

Quick Write
Explanatory Writing: Research for Examples and Details When writing an explanatory essay, you should include examples illustrating the concepts or processes you discuss. Use your textbook, the library, or reliable Internet sources to add details and examples to the notes you have made about each of your categories. As you read each section of this chapter and learn new information, you may also want to add or replace questions.

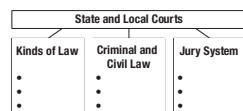
SECTION 4

In the Courtroom



Guiding Question

How do State and local courts apply different types of law? Use a flowchart similar to the one below to explain the significance of elements of the legal system.



Political Dictionary

- common law
- precedent
- criminal law
- felony
- misdemeanor
- civil law
- tort
- contract
- jury
- information
- bench trial

Objectives

1. Identify and define the kinds of law applied in State courts.
2. Compare and contrast criminal law and civil law.
3. Describe the types and purposes of juries and juror selection.

The principal function of the State courts is to decide disputes between private parties and between private parties and government. In addition, because nearly all of these courts have the power of judicial review, they act as checks on the conduct of all other agencies of both State and local government.

Kinds of Law Applied in State Courts

The law is the code of conduct by which society is governed.¹¹ It is made up of several different forms, including constitutional law, statutory law, administrative law, common law, and equity.

The highest form of law in this country is *constitutional law*. It is based on the United States Constitution and the State constitutions and on judicial interpretations of those documents. *Statutory law* consists of the statutes (laws) enacted by legislative bodies, including the United States Congress, the State legislature, the people, and local governments. *Administrative law* is composed of the rules, orders, and regulations issued by federal, State, or local executive officers, acting under proper constitutional and/or statutory authority.

Common Law The common law makes up a large part of the law of each State except Louisiana.¹² **Common law** is unwritten, judge-made law that has developed over centuries from those generally accepted ideas of right and wrong that have gained judicial recognition. It covers nearly all aspects of human conduct. State courts apply common law except when it is in conflict with written law.

The common law originated in England. It grew out of the decisions made by the king's judges on the basis of local customs. It developed as judges, coming upon situations similar to those found in earlier cases, applied and reapplied the rulings from those earlier cases. Thus, little by little, the law of those cases

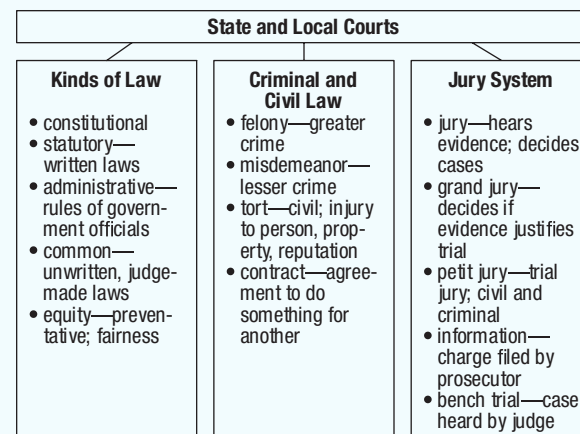
¹¹ In its overall sense, the term *law* may be defined as the whole body of "rules and principles of conduct which the governing power in a community recognizes as those which it will enforce or sanction, and according to which it will regulate, limit, or protect the conduct of its members"; *Bouvier's Law Dictionary*, 3rd revision, Vol. II.

¹² Because of an early French influence, Louisiana's legal system is largely based on French legal concepts, derived from Roman law. Nevertheless, the common law has worked its way into Louisiana law.

Image Above: Jury trial

GUIDING QUESTION

How do State and local courts apply different types of laws?



Get Started

LESSON GOALS

Students will . . .

- demonstrate knowledge of the five forms of law by completing a concept web.
- compare and contrast features of criminal versus civil law.
- analyze summaries of court cases.

SKILLS DEVELOPMENT

DRAW INFERENCES AND CONCLUSIONS

Before students work on the Core Worksheet in this lesson, you may want to review tips on drawing inferences and conclusions in the Skills Handbook, p. S19.

Focus on the Basics

Here is the information that your students need to learn in this section.

FACTS: • The law is the code of conduct by which society is governed. • The principles of common law and equity derive from English legal traditions, while constitutional law and statutory law are based in written documents. • Criminal law defines crimes and punishments. • Civil law applies to noncriminal disputes. • The jury system includes the grand jury and the petit jury.

CONCEPTS: precedent, jury trial, judicial branch

ENDURING UNDERSTANDINGS: • Each form of law applies to its own category of disputes and legal questions. • The jury system follows a clear and complicated process to guarantee justice to all.

compelling
adj. very good;
powerful

BEFORE CLASS

Assign the section, the graphic organizer in the text, and the Reading Comprehension Worksheet (Unit 7 All-in-One, p. 41) before class.

L2 Differentiate Reading Comprehension Worksheet (Unit 7 All-in-One, p. 42)

BELLRINGER

Write the following on the board: **Create a concept web titled “The Five Forms of Law,” based on information from this section. Include words that describe the features of each form.**

L1 L2 Differentiate Tell students that a concept web is built on details that support a main idea. Display the blank Concept Web transparency.

Teach

To present this topic using online resources, use the lesson presentations at **PearsonSuccessNet.com**.

DISCUSS THE FIVE FORMS OF LAW

Draw a concept web on the board or display the Concept Web graphic organizer transparency to record information about the five forms of law as a class: constitutional, statutory, administrative, common, and equity.

Have students add their information from the Bellringer to the whole-class concept web. Tell students to record any new information from this discussion in their individual concept webs.

L2 Differentiate Display Transparency 24F, Five Forms of Law Applied in State Courts, for group discussion.

CONTRAST CIVIL AND CRIMINAL LAW

Write the categories “Civil Law” and “Criminal Law” on the board. For each category, have students suggest reasons why people are taken to court. (*civil: breach of contract, dispute over property ownership, divorce; criminal: murder, theft, trespassing, speeding*) Ask students to explain how the two categories are different. (*civil law—disputes between people and between people and the government not covered by criminal law; criminal law—felonies and misdemeanors—public wrong-doing prohibited by written law*) Ask volunteers to categorize crimes into felonies and misdemeanors. (*felonies: murder, theft, arson, manslaughter; misdemeanors: traffic violations, trespassing*)

L1 ELL Differentiate Pronounce and define *misdemeanor* and *felony* for students.

Answers

Checkpoint constitutional, statutory, administrative, common, and equity

became *common* throughout England and, in time, throughout the English-speaking world.

American courts generally follow that same rule. A decision, once made, becomes a **precedent**, a guide to be followed in all later, similar cases, unless **compelling** reasons call for either an exception or its abandonment and the setting of a new precedent.

The common law is extremely important. Statutory law does override common law, but many statutes are based on the common law. A great many statutes are, in effect, common law translated into written law.

Equity This branch of the law supplements common law. It developed in England to provide equity—“fairness, justice, and right”—when remedies under the common law fell short of that goal.

The common law is mostly remedial, while equity is preventative. Thus, the common law applies to or provides a remedy for matters after they have happened; equity seeks to stop wrongs before they occur.

Suppose your neighbors plan to add a room to their house. You think that a part of the planned addition will be on your land and will destroy your rose garden. You can prevent the construction by getting an injunction, a court order prohibiting a specified action by the party named in the order.

A court is likely to grant the injunction for two reasons: (1) the immediacy of the threat to your property, and (2) the fact that the law can offer no fully satisfactory remedy once your garden has been destroyed. No money award can give back the pride or the pleasure your roses now give you.

At first, different courts administered equity and common law. In time, most States provided for the administration of both forms by the same courts, and the procedural differences between the two are disappearing.

Criminal and Civil Law

The law as it is applied by courts in this country can also be described as either criminal or civil law. **Criminal law** is that branch of the law that regulates human conduct. It identifies and defines those actions that are crimes and provides for their punishment. A crime is a

public wrong considered so damaging to society at large that it has been prohibited by law. The government (State or federal) is always a party to a criminal case, as prosecutor.

Crimes are of two kinds. A **felony** is the greater offense, punishable by a heavy fine, imprisonment, or even death—for example, murder, robbery, assault, or kidnapping. A **misdemeanor** is a lesser wrong and may be punished by a lighter fine and/or a shorter jail term—for example, a traffic violation, underage drinking, or disorderly conduct.

Civil law relates to that human conduct that is not criminal in nature, to those disputes between private persons and between private persons and government that are not covered by criminal law. Civil law involves a wide range of issues, including divorce and custody disputes, torts, and contracts.

Both tort law and contract law are major and often-used branches of civil law. A **tort** is a wrongful act that involves injury to one's person, property, or reputation in a situation not covered by the terms of a contract—for example, an automobile accident, product liability, or libel. A **contract** is a legally binding agreement in which one party agrees to do something with or for another party—for example, an agreement covering the sale of property or the terms of employment.

The Jury System

A **jury** is a body of persons selected according to law to hear evidence and decide questions of fact in a court case. There are two basic types of juries in the American legal system: (1) the grand jury and (2) the petit jury.

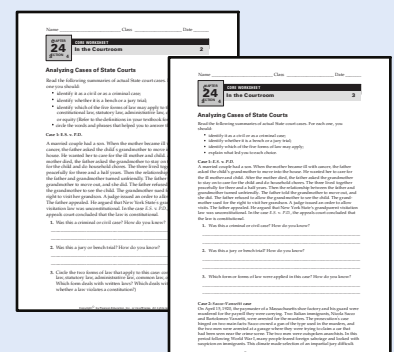
The major function of the grand jury is to determine whether the evidence against a person charged with a crime is sufficient to justify a trial. The grand jury is used only in criminal proceedings. The petit jury is the trial jury, and it is used in both civil and criminal matters.

The Grand Jury The grand jury has from 6 to 23 persons, depending on the State. Where larger juries are used, generally at least 12 jurors must agree that an accused person is probably guilty before a formal accusation is made. Similarly, with smaller juries, an

Differentiated Resources

The following resources are located in the AAll-in-One, Unit 7, Chapter 24, Section 4:

- L3** Reading Comprehension Worksheet (p. 41)
- L2** Reading Comprehension Worksheet (p. 42)
- L3** Core Worksheet (p. 43)
- L2** Core Worksheet (p. 46)
- L3** Quiz A (p. 49)
- L2** Quiz B (p. 50)



extraordinary majority is needed to indict, which means to bring the formal charge.

When a grand jury is **impaneled**, the judge instructs the jurors to find a true bill of indictment against any and all persons whom the prosecuting attorney brings to their attention and whom they think are probably guilty. The judge also instructs them to bring a presentment, an accusation, against any persons whom they, of their own knowledge, believe have violated the State's criminal laws.

The grand jury meets in secret. The prosecuting attorney presents witnesses and evidence against persons suspected of crime. The jurors may question those witnesses and may also **summon** others to testify against a suspect. After receiving the evidence and

hearing witnesses, the grand jury deliberates alone and in secret. They then move to the courtroom where their report, including any indictments they may have returned, is read in their presence.

The grand jury is expensive and time-consuming. Therefore, most of the States today depend more heavily on a much simpler process of accusation: the information.

The Information An **information** is a formal charge filed by the prosecutor, without the action of a grand jury. It is used for most minor offenses and, in many States, for some serious cases. It is far less costly and time-consuming than a grand jury. Also, since grand juries most often follow the prosecutor's

Checkpoint
What does a jury do?

impaneled
v. enrolled; established

summon
v. call



Chapter 24 • Section 4 729

Teacher-to-Teacher Network

ALTERNATE LESSON PLAN Have students compare legal systems from other countries, possibly from countries represented in the makeup of the class. In this lesson plan, students will research and present the historical background or foundation of that particular legal system and explain how it is similar to or different from the system in the United States.

To see this lesson plan, go to



DISTRIBUTE THE CORE WORKSHEET

Distribute the Chapter 24 Section 4 Core Worksheet (Unit 7 All-in-One, p. 43). Students will read summaries of State court cases and answer questions about each.

L1 L2 ELL Differentiate Distribute the adapted Core Worksheet (Unit 7 All-in-One, p. 46) to less proficient students and English language learners.

FOLLOW-UP DISCUSSION

For each summary, ask volunteers to point out which words helped them identify the case as criminal or civil, and so on. Discuss with students why a jury was or was not present in each case. Ask: **Why might a judge be preferable to a jury in certain types of trials? If you were in court, which would you prefer? Why?**

EXTEND THE LESSON

L3 L4 Differentiate Display Transparency 24G, Jury Trial. Explain that a trial by jury is considered a trial by one's peers. Critics of the jury system question the competence and impartiality of juries. Have students find a newspaper or Internet report about a recent case at the State level where the jury played a major role in the outcome. Ask students to form small groups to discuss and compare the role of the jury in their cases and to evaluate how effective they feel juries are in today's court system. Students might evaluate the jury's decision in each case and decide if the jury made their decision based on the law or on a perceived sense of "fairness."

L3 Differentiate Tell students to study their State's constitution to find information about the State's judiciary. Ask them to summarize the relevant passages.

L2 ELL Differentiate Ask students to watch the film "12 Angry Men." (The DVD comes with a Spanish language track.) Ask students to write an answer to this question: Based on the movie, do you think that juries work or do not work? Explain.

L4 Differentiate Have students do research and write a report on *voir dire* (to speak the truth), the process by which the jury is selected out of a pool of jurors. Ask them to include information on modern developments, such as the role of jury consultants.

Tell students to go to the Audio Tour to listen to a guided audio tour of the "How Government Works: Criminal and Civil Law" diagram.

Answers

Checkpoint hears evidence and decides questions of fact in a court case

Criminal and Civil Law Civil cases deal with disputes rather than crimes.

Assess and Remediate

- L3 Collect and grade students' work on the Core Worksheet (Unit 7 All-in-One, p. 43).
- L3 Assign the Section 4 Assessment questions.
- L3 Section Quiz A (Unit 7 All-in-One, p. 49)
- L2 Section Quiz B (Unit 7 All-in-One, p. 50)

REMEDIATION

If Your Students Have Trouble With	Strategies For Remediation
Types of laws and juries in the States (Questions 1, 2, 3)	Make a flowchart on the board similar to the one in the Section Opener. Have students provide information from their own flowcharts to help complete this one. List the five forms of law, differences and definitions of criminal and civil law, and information on the two types of juries. Have students record any new information in their own charts. As you work, give students opportunities to ask questions about anything they still do not understand.
The secrecy of grand juries (Question 4)	Tell students to review the text under the heading "The Grand Jury." Ask them to record details about the grand jury process in a concept web.
The purpose of an injunction (Question 5)	Write the word <i>injunction</i> and its definition on the board. Clarify that its purpose is to stop activity that might cause damage that cannot be repaired later. Point out the example in the text. Ask students to use the Think-Pair-Share strategy to brainstorm situations when an <i>injunction</i> might be requested.

Answers

Checkpoint to decide if the evidence justifies a trial

Checkpoint
What is the job of a grand jury?

recommendations, many argue that a grand jury is really unnecessary. Others feel that the grand jury prevents prosecutors from abusing their powers.

The Petit Jury The petit jury, or trial jury, hears the evidence in a case and decides the disputed facts. In very few instances, it may also have the power to interpret and apply the law. That, however, is usually the function of the judge.

The number of trial jurors may vary. As it developed in England, the jury consisted of "12 men good and true." Although 12 is the usual total, a lesser number, often six, now fills jury boxes in several States.

In more than a third of the States, jury verdicts need not be unanimous in civil and minor criminal cases. Rather, some extraordinary majority is needed. If a jury cannot agree on a verdict (a so-called hung jury), either another trial with a new jury takes place or the matter is dropped.

Misdemeanor cases and civil proceedings in which only minor sums are involved are often heard without a jury, in a **bench trial**, by the judge alone. In several States, even the most serious crimes may be heard without a jury if the accused, fully informed of his or her rights, waives the right to trial by jury.

Selection of Jurors Jurors are picked in more or less the same way in most States. Periodically, a county official or special jury commissioners prepare a list of persons eligible

for jury service, with names drawn from poll books, tax rolls, driver's license records, or other sources.¹³ The sheriff serves each person with a court order to appear. After eliminating those who, for good reason, cannot serve, the judge prepares a list of those who can. Persons under 18 and over 70 years of age, illiterates, the ill, and criminals are commonly excluded. Those in occupations vital to the public interest or for whom jury service would mean real hardship are often excused, too.

As with the grand jury, the States are moving away from the use of the trial jury. Leading reasons are the greater time and cost of jury trials. The competence of the average jury and the impulses that may lead it to a **verdict** are often questioned, as well. Much criticism of the jury system is directed not so much at the system itself as at its operation.

Several things should be said in favor of the jury system, however. It has a long and honorable place in the development of Anglo-American law. Its high purpose is to promote a fair trial, by providing an impartial body to hear the charges brought against the accused. A jury tends to bring the common sense of the community to bear on the law and its application. Finally, the jury system gives citizens a chance to take part in the administration of justice, and it fosters a greater confidence in the judicial system.

¹³It may be the clerk of the court, the sheriff, the county governing body, or the presiding judge; in New England, it is officers of the town.

verdict
n. decision or judgment

SECTION 4 ASSESSMENT

Essential Questions
Journal
To continue to build a response to the chapter Essential Question, go to your Essential Questions Journal.

- 1. **Guiding Question** Use your completed table to answer this question: How do State and local courts apply different types of laws?
- Key Terms and Comprehension**
- 2. Define **common law**, **criminal law**, and **civil law**.
- 3. Identify two types of **juries** and explain what they do.

- Critical Thinking**
- 4. **Check Consistency** Most government processes in this country must take place in public, but a grand jury does its work in secret. **(a)** Why do you think this is? **(b)** Is this secrecy a good idea? Why or why not?
- 5. **Identify Alternatives** Describe a situation in which someone might seek an injunction. Then write a brief argument in favor of granting the injunction and a brief argument against it.

Quick Write
Explanatory Writing: Write a Thesis Statement As in other types of essays or reports, you need to formulate a thesis statement to direct your thinking, research, and writing. Review your notes to find one main concept that connects your categories and questions. Write a thesis statement that expresses that concept.

Assessment Answers

- 1. They apply five types of law: constitutional, statutory, administrative, common, and equity. Laws are either criminal or civil. In serious cases, a grand jury decides whether to indict, sending the case to a petit jury trial. For minor and some serious offenses, the prosecutor files an information, without a grand jury. In cases involving misdemeanors or minor sums, a judge decides in a bench trial, without a petit jury.
- 2. Common law is unwritten, judge-made law, developed over centuries from generally accepted ideas of right and wrong. Criminal

- law defines those actions that are crimes and provides for their punishment. Civil law relates to disputes between private parties or private parties and government.
- 3. **grand jury:** determines whether evidence against a person charged with a crime is sufficient to justify a trial; **petit jury:** a trial jury that hears evidence and decides disputed facts
- 4. **(a)** Students may suggest that the jury hears much unsupported evidence that if false or misleading could ruin a person's reputation even without indictment or conviction. Secrecy

- also protects jurors from outside influences or retribution. **(b)** Answers should reflect sound reasoning.
- 5. Example answer: A woman seeks an injunction to stop a former boyfriend from following her. Argument for: The woman fears for her life. Argument against: The man has committed no crime at this point.
- QUICK WRITE** A strong thesis statement should be a complete sentence that expresses one clear goal for the explanatory essay.

Serving on a Jury

Someday, you may have the chance to participate directly in the American justice system. The right to be tried by a jury of one's peers is one of the fundamental rights afforded to citizens of a democracy, and is guaranteed by the Constitution. As a juror, you will become a major participant in the American judicial system with a duty to ensure that a fellow citizen receives justice.

How can you be selected as a potential juror? Most are chosen from voting lists, from State departments of motor vehicles, or tax rolls. How long your jury service may last can vary depending on the nature and complexity of the case involved or whether or not you are actually chosen to serve on a jury panel. Some people are excused from duty due to health issues or other hardships.

You may also be dismissed without having served at all. If you are chosen to move on to the jury selection phase, known as *voir dire*, lawyers on both sides will have questions for the potential jurors as they try to select a jury that they hope will be favorable to their case. You may be rejected.

If chosen, you and the other jurors will receive instructions prior to the beginning of the trial. These may include:

- 1. Do not be influenced by bias.** Your decision in a case should not be affected by sympathies or antipathies you may have for the defendant, plaintiff, or their attorneys.
- 2. Follow the law exactly as it is explained to you.** Your job as a juror is to determine whether or not someone broke the law, regardless of whether you approve of the law or not.
- 3. Remember that the defendant is presumed innocent.** The government has the burden of proving a defendant guilty "beyond a reasonable doubt." If it fails to do so, the jury verdict must be "not guilty." If you feel that the government did make its case, then you must find the defendant "guilty."
- 4. Keep an open mind.** Do not form or state any opinions about the case until you have heard all the evidence, the closing arguments of the lawyers, and the judge's instructions on the applicable law.
- 5. During the trial, do not discuss the case.** Do not permit anyone to talk about the case with you or in your presence, except with the court's permission. Avoid media coverage of the case once the trial has begun.

► What do you think?

1. What does the concept "reasonable doubt" mean to you?
2. Why do you think that jurors are instructed not to discuss the case and to avoid media coverage of it during the trial?
3. **You Try It** Create a jury simulation. Work in groups of six students to prepare a list of evidence related to a theoretical crime. After each team has completed its list, exchange lists. Following the instructions above, each team will then act as a jury to reach a verdict in another team's case. Ask each jury to discuss its verdict with the team that created the evidence.

GOVERNMENT ONLINE
Citizenship Activity Pack
 For activities on serving on a jury, go to
PearsonSuccessNet.com

LESSON GOAL

- Students will work in groups to take part in a jury simulation.

Teach

REVIEW THE JURY INSTRUCTIONS

Have students read aloud each instruction to the jury from the feature, as you write it on the board. Ask students if they have any questions about any of the instructions before they begin the simulation.

DEVELOP EVIDENCE LISTS

Discuss the types of evidence that might be included in a particular trial, such as a criminal trial for robbery. For example, there may be witness or victim statements, videotape from surveillance cameras, a police report, DNA or other forensic evidence, and so on. Give groups time to determine the subjects of their cases and to develop their lists of evidence. Lists should be detailed and include at least five items, as well as a brief description of the case.

DECIDE A VERDICT AND DISCUSS IT

You may want to assign groups for the exchange of evidence. In their groups, students should discuss the evidence and come to a verdict, which they should write on a piece of paper. Tell students that if their case is a murder, they must be unanimous in their decision. If their case is not a murder, a majority can decide the verdict. When verdicts and inter-group discussions are complete, ask students to each write a summary about their jury experience.

Assess and Remediate

Collect students' evidence lists and summaries and grade them. You may also wish to have them answer the What Do You Think questions.

Answers

1. Students should suggest that absolute certainty may not be possible but that if the prosecution makes its case, little doubt should remain as to the defendant's guilt.
2. Opinions of individuals and the media who are not privy to all the evidence could be inaccurate or biased; their ideas could sway a juror away from his or her true opinion.
3. A strong evidence list will include at least five relevant items and a description of the case. A strong summary will accurately present key points and explain the process that led to the verdict.

Citizenship Activity Pack

L1 L2 If your students need extra support, use the Citizenship Activity Pack lesson *How to Serve on a Jury*. It includes a lesson plan for you, a poster outlining the development of the jury system, 28 character descriptions for prospective jurors, and case briefs containing scripts for the defendant's team and for the plaintiff's team. Students will hold a mock juror selection. Students may also access the Citizenship Activity Pack online for activities on How to Serve on a Jury at **PearsonSuccessNet.com**.

GUIDING QUESTION

How are State and local courts organized and staffed?

Municipal Courts	Juvenile Courts	Justices and Magistrates' Courts
<ul style="list-style-type: none">citywide jurisdictiondivisions: civil, criminal, small claims, traffic, probate	<ul style="list-style-type: none">minors under age 18rehabilitationmay assign serious cases to adult court	<ul style="list-style-type: none">Justices: misdemeanors, small civil suits, warrants, preliminary hearings, marriagesMagistrates: urban version of JPsboth popularly elected

Get Started

LESSON GOALS

Students will . . .

- discuss the positive and negative aspects of electing or appointing judges.
- evaluate methods of judge selection by reading primary sources and through participation in a Socratic Dialogue.

BEFORE CLASS

Assign the section, the graphic organizer in the text, and the Reading Comprehension Worksheet (Unit 7 All-in-One, p. 51) before class.

L2 Differentiate Reading Comprehension Worksheet (Unit 7 All-in-One, p. 52)

SKILLS DEVELOPMENT

COMPARE VIEWPOINTS

To teach the skill of comparing viewpoints, have students read Compare Viewpoints in the Skills Handbook, p. S15. Then have them read and evaluate the two editorials in this lesson's Core Worksheet.

SECTION 5

State Courts and Their Judges



Guiding Question
How are State and local courts organized and staffed? Use a table similar to the one below to record information about the types of State and local courts.

Municipal Courts	Juvenile Courts	Justice and Magistrates' Courts
<ul style="list-style-type: none">	<ul style="list-style-type: none">	<ul style="list-style-type: none">

Political Dictionary
Justice of the Peace
warrant
preliminary
hearing
magistrate
appellate
jurisdiction

- Objectives**
- Explain how State courts are organized and describe the work that each type of court does.
 - Examine and evaluate the different methods by which judges are selected among the States.

Image Above: Chief Justice Leah Sears, Supreme Court of Georgia

They deal with everything from traffic tickets to murder, from disputes over nickels and dimes to settlements involving millions. They are the State and local courts and the judges who sit in them. Here, you will look at the way these courts are organized and how they conduct their business.

Organization

Each of the State constitutions creates a court system for that State. Some of the documents deal with the courts at great length, but most of them leave much of the detail of judicial organization and procedure to the legislature.

Justices of the Peace Justices of the Peace—JPs—stand on the lowest rung of the State judicial ladder. They preside over what are commonly called justice courts.

JPs were once found nearly everywhere in the country. In their day, they seemed well-suited to their purpose. In justice courts, people could obtain a hearing for minor offenses quickly. JPs and their justice courts have been done away with in several States. However, they can still be found in many smaller towns and rural areas.

JPs are usually popularly elected. For the most part, they try misdemeanors, which are cases involving such petty offenses as traffic violations, disturbing the peace, public drunkenness, and the like. JPs can almost never settle civil disputes involving more than a few hundred dollars. They do issue certain kinds of warrants, hold preliminary hearings, and often perform marriages.

A **warrant** is a court order authorizing, or making legal, some official action. Search warrants and arrest warrants are the most common of these documents. A **preliminary hearing** is generally the first step in a major criminal prosecution. There, the judge decides if the evidence is, in fact, enough to hold that person—bind that person over—for action by the grand jury or the prosecutor.

In some places, JPs are still paid out of the fines they take in. The more fines they impose, the higher their incomes. This “fee system” can lead to any number of abuses and raises serious questions about the fairness of the treatment a defendant can expect.¹⁴

Focus on the Basics

Here is the information that your students need to learn in this section.

FACTS: • State courts are classified by location, the community they serve, and the types of cases they resolve. • Court cases can be appealed to appellate courts and to the State supreme court. • Most State and local judges are directly elected. • Others are named by legislatures, governors, or by a combination of elected officials and voters.

CONCEPTS: judicial branch

ENDURING UNDERSTANDINGS: • Local courts serve a defined community and deal with a wide range of case types. • Cases involving difficult points of law rise to appellate courts or State supreme courts on appeal. • Any method of choosing judges raises questions about the independence and quality of the people selected.

Magistrates' Courts Magistrates are the city cousins of JPs. For the most part, magistrates handle those minor civil complaints and misdemeanor cases that arise in an urban setting. They preside over what often are called magistrates' courts or police courts. Magistrates, like JPs, are usually popularly elected for fairly short terms.

Municipal Courts Municipal courts were first established in Chicago in 1906. They are now found in most large cities and many smaller ones.

The jurisdiction of municipal courts is citywide. They can often hear civil cases involving several thousands of dollars as well as the usual run of misdemeanors. Many municipal courts are organized into divisions, which hear cases of a given kind—for example, civil, criminal, small claims, traffic, and probate divisions.

Consider the small claims division, often called the small claims court. Many people cannot afford the costs of suing for the collection of a small debt. A newspaper carrier, for example, can hardly afford a lawyer to collect a month's subscription from a customer. The owner of a two-family house may have the same problem with a tenant's back rent, and many merchants are forced to forget an overdue bill or sell it to a collection agency.

Small claims courts are designed for just such situations. There, a person can bring a claim for little or no cost. The proceedings are usually informal, and the judge often handles the matter without attorneys for either side.

Juvenile Courts Individuals under 18 years of age are generally not subject to the jurisdiction of the courts in which adults are tried. Minors who are arrested for some offense, or who otherwise come to the attention of the police or other authorities, may appear in juvenile courts.

14 Many insist that the fee system means that "JP" really stands for "judgment for the plaintiff." The practice also encourages "fee splitting"—an arrangement in which judges can increase the number of misdemeanors they hear by agreeing to share their fees with those arresting officers who bring such cases to them. The "speed trap" is probably the best known and most common result of a fee-splitting situation.

The juvenile justice system is designed to address the special needs and problems of young people. This system generally emphasizes **rehabilitation** more than punishment. However, under some circumstances, juvenile courts do refer certain offenders to a regular criminal court for trial.

Recently, most States have responded to juvenile crime with tougher criminal laws. Often these statutes make it easier to try juveniles as adults when they are charged with serious crimes. In 46 States, juvenile court judges may assign certain cases involving juveniles to adult courts. In several States, cases that meet certain standards must be tried in adult courts.

General Trial Courts Most of the more important civil and criminal cases are heard in the States' general trial courts. Every State is divided into a number of judicial districts, or circuits, each generally covering one or more counties. For each district there is a general trial court, which may be known as a district, circuit, chancery, county, or superior court, or as a court of common pleas.

These general trial courts are courts of "first instance." That is, they exercise original jurisdiction over most of the cases they hear. Most legal actions brought under State law begin in these courts. When cases do come to them on appeal from some lower court, a new trial is usually held.

The cases heard in trial courts are tried before a single judge. Most often a petit jury (the trial jury) hears and decides the facts at issue in a case, and the judge interprets and applies the law involved. Criminal cases are presented for trial either by a grand jury or, most often, on motion of the prosecuting attorney.

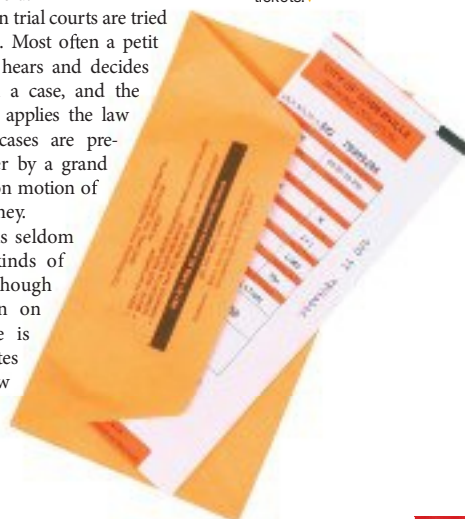
The trial court is seldom limited as to the kinds of cases it may hear. Although this court's decision on the facts in a case is usually final, disputes over questions of law may be carried to a higher court.

Checkpoint
What are the responsibilities of JPs, magistrates' courts, and municipal courts?

rehabilitation
n. the act of restoring, transforming one to a useful, lawful life

probate
adj. relating to a will or the distribution of property as described in a will

A municipal court might handle appeals of parking tickets.



Chapter 24 • Section 5 733

BELLRINGER

Write on the board: **How are judges selected in our State? How fair and effective is this method? Answer in your notebook.**

L1 L2 ELL Differentiate Suggest that students write their ideas in the form of a two-column advantages/drawbacks chart about the method used in your State to select judges.

Teach

To present this topic using online resources, use the lesson presentations at **PearsonSuccessNet.com**.

MATCH TYPES OF COURTS WITH CASES

Draw a two-column chart on the board. Have students help you to list the seven main types of courts that may be found in a State's judicial system in the first column. In the second column, ask students to provide examples of the types of cases that might appear in each court. (examples: *JP and magistrates' courts—traffic violations; juvenile courts—vandalism by a minor; municipal courts—a lawsuit over unpaid rent; general trial courts—burglary trial; appellate and State supreme courts—appeal of a case questioning the constitutionality of a State law*)

L1 L2 Differentiate Write example cases on the board and have students match each example to the appropriate court.

EVALUATE METHODS USED TO SELECT JUDGES

Display Transparency 24H, Selection of Judges. Tell students that the Missouri Plan is in place in a little over half the States. Election is the method most often used, while appointment by the State legislature is used least. Ask: **What are the three main ways of selecting judges in the States?** (election, appointment by the governor, and appointment by the State legislature) **Why do few people favor appointment by the State legislature?** (State legislators might select judges biased toward their party's views, not based on judicial merit.) **How does the Missouri Plan make use of checks and balances?** (The governor's choice has to be approved by the people, who act as a check on the choice.) Ask: **Why do you think judges are selected differently at the State and national levels?** (It could be too cumbersome a process to have national elections for federal judges or people might not know enough to make informed voting decisions.)

L2 Differentiate Have students use the Think-Pair-Share method to answer this question.

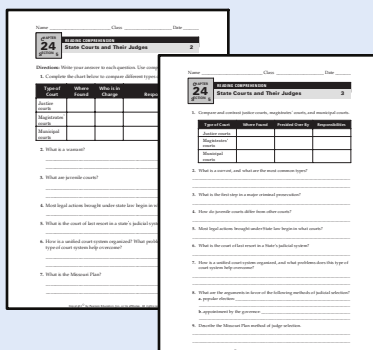
Answers

Checkpoint JPs and magistrates: misdemeanors, small civil suits, warrants, preliminary hearings, marriages; municipal courts: civil cases of several thousand dollars, misdemeanors, small claims, traffic, probate

Differentiated Resources

The following resources are located in the All-in-One, Unit 7, Chapter 24, Section 5:

- L3** Reading Comprehension Worksheet (p. 51)
- L2** Reading Comprehension Worksheet (p. 52)
- L3** Core Worksheet (p. 53)
- L3** Quiz A (p. 57)
- L2** Quiz B (p. 58)
- L3** Chapter Test A (p. 59)
- L2** Chapter Test B (p. 62)



DISTRIBUTE THE CORE WORKSHEET

Distribute Chapter 24 Section 5 Core Worksheet (Unit 7 All-in-One, p. 53), which contains editorials written by retired U.S. Supreme Court Justice Sandra Day O’Connor and J. Karl Miller, a staff writer for the *Columbia Missourian* newspaper. Both editorials give opinions on how judges are selected. Have students read the selections and answer the questions that follow. Tell students that they will use the information and opinions in these selections to participate in a Socratic Dialogue.

Name _____ Class _____ Date _____

CHAPTER
24

CORE WORKSHEET

SECTION 5

State Courts and Their Judges

3

The Selection of Judges

Read the articles below about selecting State judges. Then answer the questions that follow.

Justice for Sale
by retired Supreme Court Justice Sandra Day O'Connor

Voters generally don't express much interest in the election of judges. This year, as in years past, voter turnout in elections for judges was very low. But judicial elections, which occur in some form in 39 states, are receiving growing attention from those who seek to influence them. In fact, motivated interest groups are pouring money into judicial elections in record amounts. Whether or not they succeed in their attempts to sway the voters, these efforts threaten the integrity of judicial selection and compromise public perception of judicial decisions.

The final four candidates running for open seats on the Supreme Court of Pennsylvania raised more than \$5.4 million combined in 2007, shattering fund-raising records in Pennsylvania judicial elections. Since 2006, high court campaigns in Georgia, Kentucky, Oregon and Washington also set fund-raising records. Since 2004, nine other states broke records for high court election spending.

Most of this money comes from special interest groups who believe that their contributions can help elect judges likely to rule in a manner favorable to their causes. As interest-group spending rises, public confidence in the judiciary declines. Nine out of 10 Pennsylvanians regard judicial fund raising as evidence that justice is for sale, and many judges agree. According to a nationwide survey by the Annenberg Public Policy Institute, partisan judicial elections decrease public confidence that courts are fair, impartial and operating in the best interest of the American people.

The first step that a state like Pennsylvania can take to reverse this trend is to replace the partisan election of its judges with a merit-selection system, or at least with a nonpartisan system in which the candidates do not affiliate with political parties. In a typical merit-based system, an independent commission of knowledgeable citizens recommends several qualified candidates suitable for appointment by the governor of the state. After several years of service, the appointed judge's name is then submitted to the voters for an up or down vote known as a retention election.

The second step a state can take is to set up campaign-conduct committees to educate voters and the media about the criteria people should use to select judges.

These committees can also publicize accurate information about the sources of big contributions, providing the kind of transparency that allows voters to decide whether a judicial candidate's impartiality may be compromised by her contributors. Finally, the committees can flag inappropriate campaign conduct and provide information to help voters interpret charges made in campaign advertising sound bites.

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L2 ELL Differentiate If students are having difficulty reading the primary sources on the Core Worksheet, pair them with a more proficient reader to help explain difficult words or concepts.

Answers

Juvenile Justice Juveniles may lack adult judgment in determining right from wrong. Influence from adult inmates could turn juvenile offenders into hardened criminals or be dangerous. Juvenile justice should focus on rehabilitation.

Juvenile Justice

Juvenile courts arose from decades of struggle at the State level to adapt and reform the criminal justice system. *Why do you think reformers sought separate jails and prisons for young people?*



1800s Common law preferred to have parents discipline children for most crimes. Young people accused of serious crimes were jailed with adults, and those as young as seven could be tried and sentenced in criminal courts.

1899 Cook County, Illinois, creates the first juvenile court on the principle of "the state as parent." The court protects both public safety and the needs of the juveniles accused of crimes.

1974 Congress passes the Juvenile Justice and Delinquency Prevention Act requiring that young people be jailed separately from adults and encouraging states to develop alternatives to prisons.

Today While juvenile courts still flourish, States increasingly allow juveniles accused of serious crimes to be tried and sentenced in adult courts.

Intermediate Appellate Courts Most States now have one or more intermediate appellate courts. They are courts of appeal that stand between the trial courts and the State's supreme court. These appellate courts serve to ease the burden of the State's highest court.

The appellate courts have different names among the States, but they are most often called the court of appeals.¹⁵ Most of their work involves the review of cases decided in the trial courts. That is, these appeals courts exercise mostly **appellate jurisdiction**. Their original jurisdiction, where it exists, is limited to a few specific kinds of cases—election disputes, for example.

In exercising their appellate jurisdiction, these courts do not hold trials. Rather, they hear oral arguments from attorneys, study the briefs (written arguments) that attorneys submit, and review the record of the case in the lower court.

Ordinarily, an intermediate appellate court does not concern itself with the facts in a case. Rather, its decision turns on whether the law was correctly interpreted and applied in the court below. Its decision may be

reviewed by the State's high court; its disposition of a case is usually final, however.

The State Supreme Court The State's supreme court is the highest court in its judicial system.¹⁶ Its major function is to review the decisions of lower courts in those cases that are appealed to it.

The size of each State supreme court is fixed by that State's constitution, usually at five or seven justices. A chief justice presides over the sessions of each State's top court.

The governor appoints the justices in just over half of the States. The voters elect them elsewhere, except in two States where the legislature chooses.

The State supreme court is the court of last resort in the State's judicial system. It has the final say in all matters of State law. The United States Supreme Court *may* review some State supreme court decisions touching on federal law. But not very many State decisions actually go to the federal Supreme Court.¹⁷ Recall

¹⁶ The State's highest court is known as the Supreme Court in 45 States. But in Maine and Massachusetts it is called the Supreme Judicial Court; in Maryland and New York, the Court of Appeals; and in West Virginia, the Supreme Court of Appeals. Oklahoma and Texas have two high courts: the Supreme Court is the highest court in civil cases, and a separate Court of Criminal Appeals is the court of last resort in criminal cases.

¹⁷ Many such cases involved the 14th Amendment's Due Process and Equal Protection clauses.

¹⁵ In New York, the general trial court is called the supreme court, or the county court; the intermediate appellate court is the appellate division of the supreme court; the State's highest court is known as the Court of Appeals.

Background

JUVENILE COURT MOVEMENT For over 100 years from its inception, the United States treated juvenile offenders no differently from adult offenders. In 1899, for example, 322 boys ages 9 to 16 were imprisoned in the city of Chicago for crimes ranging from assault with a deadly weapon to picking up coal on the railroad tracks. In prison, they shared cells with adult criminals. This raised an outcry for a new system, and the Illinois Juvenile Court Act of 1899 established the first separate, noncriminal court for the children of the State. The juvenile court movement spread rapidly, due largely to the influence and philosophy of Judge Ben Lindsey of Colorado, and by the 1920s every State had some legal provision for delinquent youth.

that an appeal from a State's high court will be heard in the federal Supreme Court only if (1) a "federal question"—some matter of federal law—is involved in the case and (2) the Supreme Court agrees to hear that appeal. In short, most State supreme court decisions are final.¹⁸

Unified Court Systems The typical State court system is organized geographically rather than by types of cases. In these map-based systems, a judge must hear cases in nearly all areas of the law. A **backlog** of cases can and often does build up in some courts while judges sit with little to do in others. Moreover, uneven interpretations and applications of the law may and sometimes do occur from one part of the State to another. To overcome these difficulties, a number of States have turned to a unified court system—one that is organized on a functional, or case-type, basis.

In a completely unified court system, there is technically only one court for the entire State. It is presided over by a chief judge or judicial council. There are a number of levels within the single court, such as supreme, intermediate appellate, and general trial sections. At each level within each section, divisions are established to hear cases in certain specialized or heavy-caseload areas of the law—criminal, juvenile, family relations, and other areas that need special attention.

In such an arrangement, a judge can be assigned to that section or division to which his or her talents and interests seem best suited. To relieve overcrowded dockets, judges may be moved from one division to another.

Selection of Judges

Clearly, the quality of any court system—indeed, the quality of justice itself—depends in large measure on the selection of competent,

well-trained judges. More than 15,000 judges now sit in the States' various trial and appellate courts. Nearly all of them came to office in one of three ways: (1) by popular election, (2) by appointment by the governor, or (3) by appointment by the legislature.

Popular election is by far the most widely used method of judicial selection. In fact, the only way to become a judge in 11 States is by popular election.¹⁹ Midterm vacancies, caused by death or resignation, provide the only exception to that blanket rule; those vacancies are usually filled by gubernatorial appointment. Roughly half of all judicial elections are nonpartisan contests today.

Selection by the legislature is the method least often used. The lawmakers now choose all or at least most judges in only two States: South Carolina and Virginia.

Governors now select nearly a fourth of all State judges. In five States, the chief executive appoints them all. In several others, the governor has the power to appoint all or at least many judges, but under a Missouri Plan arrangement, as you will see.

How Should Judges Be Selected? Most people believe that judges should be independent, that they should "stay out of politics."



► **Analyzing Political Cartoons** What does this cartoon suggest about electing judges based on their judicial philosophy?

Checkpoint
Why do some States have a unified court system?

backlog
n. a build-up of unfinished work

MAKE A DECISION USING A SOCRATIC DIALOGUE

Discuss students' answers to the Bellringer questions. Then discuss their reactions to the primary source readings and ask whether either source changed their ideas about appointment versus election of judges. Ask: **How does the election of judges help or hurt the judicial system?** (*More competent judges might be chosen through appointment, but election ensures accountability to the people.*)

Selecting judges through popular election is more democratic, but does it create a stronger or weaker judicial system? Tell students that they will have 15 minutes to choose whether they think election or appointment is the best method. Remind them to consider the advantages and disadvantages of both. Have them use a Socratic Dialogue (p. T24) to decide.

FOLLOW UP THE DISCUSSION

Give students a few minutes to reflect on the results of the Socratic Dialogue in a journal entry. If they agreed on a method, have students answer these questions: **What criteria were important in your choice? Is one method overwhelmingly better than another? Is one method best for all cases?**

If they were unable to agree, have students answer these questions: **Why were you not able to agree on a method? Do you think the class could have settled on a method for specific government levels or specific types of courts?**

EXTEND THE LESSON

Have students investigate the types of courts in your State's judicial system. Ask them to use the information they find to create an informational poster that explains each type of court, each level of authority, and how each court's judges are selected.

¹⁸ State law regularly gives its lower courts final jurisdiction over many types of minor cases. That is, review cannot be sought in a higher State court. In those cases, the lower court is the State's court of last resort. If any review is to be had, it can be only in the United States Supreme Court. Such reviews are extremely rare.

¹⁹ Alabama, Illinois, Kentucky, Michigan, Minnesota, Nevada, New Mexico, North Carolina, North Dakota, Pennsylvania, Wisconsin.

Political Cartoon Mini-Lesson

Display the political cartoon Transparency 24I, Justice for Sale, as an extension to the Core Worksheet activity. Point out that this cartoon appeared in the article by Sandra Day O'Connor in *The Wall Street Journal*. Ask: **What does the scale represent?** (*the judicial system*) **Why is the scale unbalanced?** (*because money weighs more—that is, has more influence—in the judicial system than the people do*) **What main point made by O'Connor does this cartoon illustrate?** (*Money from special interests is upsetting the balance, or integrity, of the judicial system, and eroding people's faith in judicial decisions.*)

Answers

Checkpoint to spread caseloads more evenly and to make interpretations and applications of law more uniform across the State

Analyzing Political Cartoons that the elected judge's judicial philosophy could be positive or negative

Assess and Remediate

L3 Assess students’ class participation using the Rubric for Assessing Individual Performance in a Group (Unit 7 All-in-One, p. 126).

L3 Assign the Section 5 Assessment questions.

L3 Section Quiz A (Unit 7 All-in-One, p. 57)

L2 Section Quiz B (Unit 7 All-in-One, p. 58)

Have students complete the review activities in the digital lesson presentation and continue their work in the Essential Questions Journal.

REMEDIATION

If Your Students Have Trouble With	Strategies For Remediation
The organization of the State courts (Questions 1, 2, 3)	List the seven main types of courts at the State level on the board. Ask students to supply details about each type, including their main functions and the kinds of cases they hear.
How judges are selected (Question 4)	Write the three methods of judge selection on the board in the form of a pro/con chart. Based on their reading and their own thinking, ask students to suggest the benefits and drawbacks of each method.
Qualifications for judges (Question 5)	Have students create a résumé that represents someone they would consider to be a highly qualified judge. Tell students to work in groups of three to compare the types of experience they listed.

Answers

Checkpoint by popular election or by gubernatorial appointment

Checkpoint What are the two main ways that judges are selected?

Whatever method of selection is used should be designed with that goal in mind.

Nearly all authorities agree that selection by the legislature is the most political of all the methods of choice. Few favor it. So, the question really becomes: Which is better, the popular election of judges or their appointment by the governor?

Those who favor popular election generally make the democratic argument. Because judges “say the law” (interpret and apply it), they should be chosen by and answer directly to the people. Some also argue that the separation of powers is undercut if the executive names the members of the judicial branch.

Those who favor appointment by the governor argue that the judicial function should be carried out only by those who are well qualified. The fact that a person has the support of a political party or is a good vote-getter does not mean that person has the capacity to be a good judge. Proponents of executive appointment insist that it is the best way to ensure that those persons who preside in courts will have the qualities most needed in that role: absolute honesty and integrity, fairness, and the necessary training and ability in the law.

Deciding between these two positions is difficult at best. The people have often made excellent choices, and governors have not always made wise and nonpolitical ones. Still, most authorities come down on the side of gubernatorial appointment—largely because those characteristics that make a good judge

and those that make a good candidate are not too often found in the same person.

Popular election is both widely used and widely supported by citizens and party organizations. So, most moves to revise methods of judicial selection have kept at least some element of voter choice.

The Missouri Plan For most of the past century, the American Bar Association (ABA) has sponsored an approach that combines election and appointment. The method is often called “the Missouri Plan,” and some form is now in place in just over half the States.

In Missouri’s version of this method, the governor appoints the seven justices of the State supreme court, the 32 judges of the court of appeals, and all judges who sit in the trial courts in the most heavily populated parts of the State. The governor must make each appointment from a panel, or list, of three candidates recommended by a judicial nominating commission. The commission is made up of a sitting judge, several members of the bar, and private citizens.

Each judge named by the governor serves until the first general election after he or she has been in office for at least a year. The judge’s name then appears on the ballot without opposition. The voters decide, in a retain-reject election, whether or not that judge should be kept in office. Should the voters reject a sitting judge, the process begins again.

proponent n. one who is actively in favor of something; a supporter

Essential Questions Journal To continue to build a response to the chapter Essential Question, go to your Essential Questions Journal.

SECTION 5 ASSESSMENT

1. Guiding Question Use your completed concept web to answer this question: How are State and local courts organized and staffed?

Key Terms and Comprehension

- 2. (a) What is appellate jurisdiction? (b) Which State courts have this jurisdiction?
- 3. Describe the work of the general trial courts.

Critical Thinking

- 4. Demonstrate Reasoned Judgment How do you think judges should be selected? Choose one method described in this section and create a strong, well-supported argument for that method.
- 5. Draw Inferences What qualifications do you think a good judge should have? Write a help-wanted advertisement for your ideal candidate.

Quick Write

Explanatory Writing: Create an Outline To help you structure an explanatory essay on the differences in power between the national and State governments, create an outline in which you identify each topic and subtopic in a single phrase. When you are ready to write your essay, you can use the outline as a guide. Alternatively, you may create a flowchart to help you organize and order your ideas.

Assessment Answers

1. Main types of State courts: Justice of the Peace courts (misdemeanors, small civil suits, warrants, preliminary hearings, marriages); magistrates’ courts (urban version of JPs); municipal courts (civil, criminal, small claims, traffic, probate); juvenile courts (minors under age 18); general trial courts (most of the more important civil and criminal cases); intermediate appellate courts (appeals from trial courts); supreme court (appeals from lower courts). Some States have a unified court system with a chief judge or council and several levels. Divisions within each level hear cases in specialized

or heavy-caseload areas, such as criminal, juvenile, and family relations. Judges in the States may be elected, appointed by the governor, or appointed by the legislature. The Missouri Plan combines election and appointment.

- 2. (a) review of the interpretation and application of law in cases decided by lower courts (b) intermediate appellate courts and the State supreme court
- 3. General trial courts exercise original jurisdiction, and hear both criminal and civil cases.
- 4. Strong answers should focus on the goal

of keeping judges independent of politics as much as possible.

5. Answers will vary but might include knowledge of the law and judicial processes, good judgment, honesty, integrity, and fairness.

QUICK WRITE Outlines should be presented in correct outline format and cover the topic of the differences in power between the State and national governments appropriately and logically.

Guiding Question
Section 2 What are the defining traits and purpose of State legislatures?

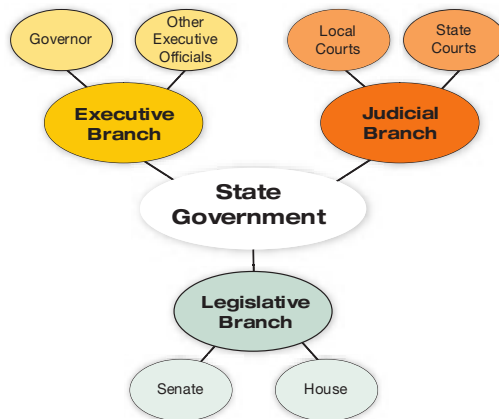
Guiding Question
Section 3 What are the roles and powers of a governor?

Guiding Question
Section 4 How do State and local courts apply different types of law?

Guiding Question
Section 1 What are the defining features of State constitutions?

CHAPTER 24
Essential Question
 How much power should State government have?

Guiding Question
Section 5 How are State and local courts organized and staffed?



Legal Terms

Term	Purpose
Jury	To reach a just decision
Common law	To guide a judge's decisions with past examples
Equity	To stop wrongs before they occur
Criminal law	To protect the public order
Civil law	To resolve disputes between people and between people and the government

Political Dictionary

popular sovereignty p.709
 limited government p. 709
 fundamental law p. 710
 initiative p. 712
 statutory law p. 713
 police power p. 717
 constituent power p. 717
 referendum p. 719
 recall p. 721
 item veto p. 724
 clemency p.724
 pardon p. 724
 commutation p. 725
 reprieve p. 725
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 common law p. 727
 precedent p. 728
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 civil law p. 728
 tort p. 728
 contract p. 728
 jury p. 728
 information p. 729
 bench trial p. 730
 Justice of the Peace p. 732
 warrant p. 732
 preliminary hearing p. 732
 magistrate p. 733
 appellate jurisdiction p. 734

Have students download the digital resources available at Government on the Go for review and remediation.

STUDY TIPS

SQ3R SQ3R stands for “Survey, Question, Read, Recite, Review.” Explain to students that SQ3R is a reading method that will help them organize and remember information. When they sit down to read a section of their textbook using this method, students will first **survey** the section. This means skimming the headings, subheadings, and captions in the section, as well as introductory and concluding paragraphs. Students should then skim the section again, this time asking themselves **questions** such as “What is this section about?” and turning the headings and subheadings into questions. After considering these questions briefly, students should **read** the section, looking for the answers. While reading, students should also note key terms and review graphic organizers. When reading is complete, students **recite** information from the section. To do this, they can ask themselves questions aloud or summarize aloud what they’ve read or jot down key points in their own words. The **review** part of the method is ongoing over several days. To review what they have read, students can write questions about the content, skim the material, or create graphic organizers to summarize the material in the section. Students might also make flash cards of key points in the section that they can use while studying.

ASSESSMENT AT A GLANCE

Tests and Quizzes

Section Assessments
 Section Quizzes A and B, Unit 7 **All-in-One**
 Chapter Assessment
 Chapter Tests A and B, Unit 7 **All-in-One**
 Document-Based Assessment
 Progress Monitoring Online
 ExamView Test Bank

Performance Assessment

Essential Questions Journal
 Extend the Lesson, p. 711
 Assessment Rubrics, **All-in-One**

For More Information

To learn more about governing the states, refer to these sources or assign them to students:

- L1** De Capua, Sarah. *Being a Governor*. Children’s Press, 2004.
- L2** Marvis, B., Austin Sarat, and Leslie Berger. *Grand Jury*. Chelsea House Publishers, 2000.
- L3** Braunstein, Richard. *Initiative and Referendum Voting: Governing Through Direct Democracy in the United States*. LFB Scholarly Publishing LLC, 2004.
- L4** Tarr, G. Alan. *Understanding State Constitutions*. Princeton University Press, 2000.

Chapter Assessment

COMPREHENSION AND CRITICAL THINKING

SECTION 1

1. (a) popular sovereignty, limited government, separation of powers, checks and balances (b) The early constitutions arose from the experiences of the American Revolution and reflect the goals of the revolutionaries. After throwing off the tyranny of the British government, Americans wanted to set limits and checks within their constitutions to protect basic rights and ensure that the people remained the supreme authority and that their governments could not oppress them again.
2. (a) Amending State constitutions requires a proposal from a constitutional convention, the legislature, or popular initiative followed by ratification by popular vote, typically by a majority of those voting. Amending the U.S. Constitution is more difficult. There is no initiative process, and proposals and ratification require greater support than a majority vote. (b) The process of formal change for State constitutions involves proposal by the legislature, which can be simple in some States or difficult in others. In 18 States, the voters themselves can propose constitutional amendments through the initiative, a process in which voters sign petitions in favor of a proposal that goes on the ballot for approval or rejection by the people. Over the years, State constitutions have grown in size and complexity, with outdated provisions and unnecessary details.

SECTION 2

3. (a) all powers not granted to another branch or denied by State or U.S. constitutions; pass laws that do not conflict with federal law or the State constitution; tax, spend, borrow, establish courts/jurisdiction, define crimes/punishment, regulate commerce, maintain schools; police power; approve appointments; impeach; propose State constitutional amendments (b) State legislatures basically have the same powers as Congress, but they also have the police power, which is reserved to them.
4. (a) Voters can propose and force a vote on an amendment or a law by initiative. In a referendum, the legislature decides to refer the measure to the voters. (b) Students should support their positions with details from the text.

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Chapter Assessment

GOVERNMENT ONLINE
Self-Test
To test your understanding of key terms and main ideas, visit PearsonSuccessNet.com

Comprehension and Critical Thinking

Section 1

1. (a) What are the basic principles on which all State constitutions are based? (b) How do these basic principles reflect the origins of the first State constitutions?
2. (a) Explain how the process of amending a State constitution differs from amending the federal Constitution. (b) How might the two basic methods for changing State constitutions contribute to the need for reform?

Section 2

3. (a) What powers does a State legislature have? (b) How are those powers different from the powers of Congress?
4. (a) What is the difference between an initiative and a referendum? (b) Is the initiative process a reflection of the principle of representative government?

Section 3

5. (a) How does the governor's role as chief executive differ from the President's role as head of the executive branch? (b) Should the formal and informal qualifications for a governorship differ from those for the presidency? Why?
6. (a) Which of the governor's executive powers is most important? Explain. (b) Do the governor's judicial powers conflict with the principle of separation of powers? Why or why not?

Section 4

7. (a) What is common law and what are its origins? (b) Why do you think that it remains important to our legal system?
8. (a) What does the use of juries tell you about traditional American views of the proper role of citizens and government officials in the judicial process? (b) What does the trend away from jury trials say about trends in the American system of justice?

Section 5

9. (a) What are the three ways by which State and local judges are selected today? (b) Do you or would you approve of the Missouri Plan as a fair and effective way to select judges in your State? Why or why not?
10. **Analyzing Political Cartoons** (a) What does "streamlining the judicial process" mean? (b) What are the benefits to States and individuals of streamlining? (c) What, according to this cartoon, is a disadvantage?



"In the interest of streamlining the judicial process, we'll skip the evidence and go directly to sentencing."

Writing About Government

11. Use your Quick Write exercises from the section assessments to write an essay that explains the aspect of State government you selected. Make sure the body supports your thesis with accurate information and reasoned arguments. See pp. S3–S5 in the Skills Handbook.

Apply What You've Learned

12. **Essential Question Activity** Speak with a State legislator, legislative aide, or employee of State government. Ask:
 - (a) How does State government most directly affect people's lives?
 - (b) Is State government as responsible to voters as it should be?
 - (c) If you could change the structure of State government, what would you do?

13. **Essential Question Assessment** Use the interview you conducted to write an editorial that helps you answer the Essential Question: **How much power should State government have?** In your editorial, propose what you think is the one most important reform that should be made to your State's government. Explain your reasoning and include information from your interview to help persuade readers of the benefits of your suggested reform.

Essential Questions Journal To respond to the chapter Essential Question, go to your **Essential Questions Journal**.

SECTION 3

5. (a) A governor shares power with other State executives. The President is alone at the top. (b) Some students may feel that since both positions require similar responsibilities, the qualifications should be the same. Others may feel that President is a broader and more crucial job requiring more experience and greater qualifications.
6. (a) Students should choose one of the executive powers and support their choice. (b) The governor can alter judicial decisions, thereby checking the power of the judicial

branch, by using the powers of pardon, commutation, reprieve, and parole. The governor cannot remove a judge or jury or decide a case, but only change a decision and probably would not do this lightly because of public opinion.

SECTION 4

7. (a) The common law is unwritten, judge-made law developed over centuries from generally accepted ideas of right and wrong that have gained judicial recognition. It originated in England. (b) Possible answer: It is important because it is

Document-Based Assessment

CHAPTER 24

Direct Democracy in the States

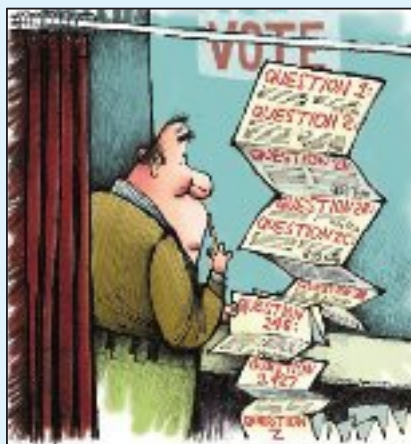
The initiative and referendum are crucial tools of direct democracy that grew out of the Populist and Progressive reform movements of the nineteenth and early twentieth centuries quoted in Document 1. These reforms increased control of government by the voters, but some critics wondered how effective they really are, as shown in Document 2.

Document 1

Corruption dominates the ballot-box, the Legislatures, the Congress, and touches even. . . the bench. The people are demoralized; . . . [t]he newspapers are largely subsidized or muzzled, public opinion silenced, business [exhausted], homes covered with mortgages, labor impoverished, and the land concentrating in the hands of capitalists. . . . From the same [fertile] womb of governmental injustice we breed the two great classes—tramps and millionaires. . . . We have witnessed for more than a quarter of a century the struggles of the two great political parties for power and plunder, while grievous wrongs have been inflicted upon the suffering people. We charge that the controlling influences dominating both these parties have permitted the existing dreadful conditions to develop without serious effort to prevent or restrain them. Neither do they now promise us any substantial reform. . . . They propose to sacrifice our homes, lives, and children on the altar of mammon; to destroy the multitude in order to secure [corrupt] funds from the millionaires. . . . RESOLVED, that we commend to the favorable consideration of the people and the reform[ist] press the legislative system known as the initiative and referendum.

—The Populist Party Platform, 1892

Document 2



Use your knowledge of the police power and Documents 1 and 2 to answer Questions 1–3.

- Through the initiative and referendum, the Populist Party hoped to
 - redistribute money and land so that all Americans would be economically equal.
 - create long and confusing ballots designed to trick voters.
 - give Americans more faith in the powerful and wealthy leaders.
 - take power away from the wealthy and special interests and restore it to the common people.
- What concern about ballot reforms is the cartoonist expressing in Document 2? Explain.
- Pull It Together** Do you think that initiatives and referenda are still effective ways for voters to influence or control government in the States? Explain.



GOVERNMENT ONLINE

Go Online head

To find more primary sources about direct democracy, visit PearsonSuccessNet.com

DOCUMENT-BASED ASSESSMENT

- D
- Reforms will result in so many candidates and initiatives that the ballot will become too long and complicated for ordinary citizens to understand.
- Essays should reflect an understanding of the need to give reasonable voice to ordinary citizens without overcomplicating elections. Students should recognize that voters have an important role in a democracy, whether exercised indirectly through elected officials or directly through initiative and referendum.

L2 Differentiate Students use all the documents on the page to support their thesis.

L3 Differentiate Students include additional information available online at PearsonSuccessNet.com.

L4 Differentiate Students use materials from the textbook, the online information at PearsonSuccessNet.com, and do additional research to support their views.



Go Online to PearsonSuccessNet.com for a student rubric and extra documents.

tradition on which many written laws and judicial decisions today are based.

- (a) possible answer: faith in ordinary citizens and suspicion of government (b) Possible answer: It may indicate a desire for fast, inexpensive results and more efficient government; less confidence in the motivation and competence of jurors and more confidence in professional jurists.

SECTION 5

- (a) popular election, appointment by governor, appointment by legislature (b) Students should support their opinion.

- (a) simplifying the trial process (b) a quicker, less costly resolution of a trial (c) the possibility that critical evidence would not be heard and a fair judgment might not be reached

WRITING ABOUT GOVERNMENT

- Essays should be well-organized and clearly explain the concept or process students worked to develop throughout the chapter.

APPLY WHAT YOU'VE LEARNED

- Responses should summarize the interviewee's answers.

- Students' editorials should contain well-organized, informative details presented in an effective, persuasive style.

Introduce the Chapter

Essential Questions:

UNIT 7

What is the right balance of federal, State, and local government?

CHAPTER 25

How local should government be?

ACTIVATE PRIOR KNOWLEDGE

Have students examine the photo and quotation on these pages. Ask: **What do the photo and quotation suggest about the importance of local governments in citizens' lives?** (*Local governments can be agents of change for their citizens.*) In this chapter, students will learn how State and local governments serve citizens. Tell students to further explore local governments by completing the Chapter 25 Essential Question Warmup activity in their **Essential Questions Journal**. Discuss their responses.

BEFORE READING

L2 ELL Differentiate Chapter 25 Prereading and Vocabulary Worksheet (Unit 7 All-in-One, p. 74)

SUCCESSNET STUDENT AND TEACHER CENTER

Visit **PearsonSuccessNet.com** for downloadable resources that allow students and teachers to connect with government "on the go."

DIGITAL LESSON PRESENTATION

The digital lesson presentation supports the print lesson with activities and summaries of key concepts. Activities for this chapter include:

- Municipalities and Townships
- State and Local Spending

SKILLS DEVELOPMENT

ANALYZE CAUSE AND EFFECT

You may wish to teach analyzing cause and effect as a distinct skill within Section 2 of this chapter. Use the Chapter 25 Skills Worksheet (Unit 7 All-in-One, p. 94) to help students learn how to analyze cause and effect. The worksheet asks students to read an excerpt and then explain how highway construction is described as both a cause and an effect. For L2 and L1 students, assign the adapted Skill Activity (Unit 7 All-in-One, p. 95).



The chapter WebQuest challenges students to answer the chapter Essential Question by asking them about local government.



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Block Scheduling

BLOCK 1: Teach the Section 1 lesson and assign the L3 Extend option. Teach the Section 2 lesson, omitting the city planning activity and the Extend options.

BLOCK 2: Teach the Section 3 and 4 lessons, omitting the Extend options.